

State of Iowa

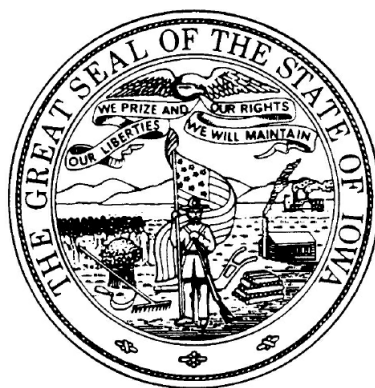
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Administrative

Code

Supplement

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code sections 2B.5A and 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay or suspension imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Accountancy Examining Board[193A]

- Replace Chapters 2 to 4
- Replace Chapter 6
- Replace Chapters 9 and 10
- Replace Chapter 18

Utilities Division[199]

- Replace Chapter 27

Economic Development Authority[261]

- Replace Analysis
- Remove Reserved Chapters 15 to 19
- Insert Chapter 15 and Reserved Chapters 16 to 19
- Replace Chapter 36

Educational Examiners Board[282]

- Replace Analysis
- Replace Chapters 11 to 13
- Replace Chapter 16
- Replace Chapter 20
- Replace Chapter 22
- Replace Chapter 27

Status of Iowans of Asian and Pacific Islander Heritage[436]

- Replace Analysis

Law Enforcement Academy[501]

- Replace Analysis
- Replace Chapters 1 and 2
- Replace Chapter 4
- Replace Chapter 7
- Replace Chapters 9 to 11
- Replace Chapter 13

Environmental Protection Commission[567]

- Replace Chapters 116 and 117

Professional Licensure Division[645]

Replace Chapter 31
Replace Chapter 280
Replace Chapter 361

Revenue Department[701]

Replace Analysis
Replace Chapters 42 and 43
Remove Chapter 155 and Reserved Chapters 156 to 210
Insert Reserved Chapters 155 to 210

Transportation Department[761]

Replace Analysis
Remove Reserved Chapters 133 to 135
Insert Reserved Chapters 133 and 134 and Chapter 135

Labor Services Division[875]

Replace Chapters 90 and 91

CHAPTER 2
ORGANIZATION AND ADMINISTRATION
[Prior to 7/13/88, see Accountancy, Board of[10]]

193A—2.1(542) Description.

2.1(1) The purpose of the accountancy examining board is to administer and enforce the provisions of Iowa Code chapter 542 with regard to the practice of accountancy in the state of Iowa including the examining of candidates; issuing of certificates and licenses; granting of permits to practice accountancy; investigating violations and infractions of the accountancy law; disciplining certificate holders, licensees or permit holders; regulating individuals or firms exercising a practice privilege; and imposing civil penalties against nonlicensees. To this end, the board has promulgated these rules to clarify the board's intent and procedures.

2.1(2) The primary mission of the board is to protect the public interest. All board rules shall be construed as fostering the guiding policies and principles described in Iowa Code section 542.2. The board and its licensees shall strive at all times to protect the public interest by promoting the reliability of information that is used for guidance in financial transactions or accounting for or assessing the financial status or performance of commercial, noncommercial, and governmental enterprises.

2.1(3) All official communications, including submissions and requests, should be addressed to the board at 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 2719C, IAB 9/28/16, effective 11/2/16]

193A—2.2(542) Advisory committees. The board chair may appoint advisory committees of not less than two nor more than four members of the board for the purpose of making recommendations to the board concerning the board's responsibilities as to examinations, licensing, continuing education, professional conduct, discipline, and other board matters.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—2.3(542) Annual meeting. The annual meeting of the board shall be the first meeting scheduled after April 30. At this meeting the chair and vice-chair shall be elected to serve until their successors are elected. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—2.4(542) Other meetings. In addition to the annual meeting and subsequent meetings, the time and place of which may be fixed by resolution of the board, a meeting may be called by the chairperson of the board or by joint call of a majority of its members.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—2.5(542) Board administrator's duties.

2.5(1) The board administrator shall ensure that complete records are kept of all applications for examination and registration, all certificates, licenses and permits granted, and all necessary information in regard thereto. The board administrator is the lawful custodian of the board records.

2.5(2) The board administrator shall determine when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations; and the board administrator shall submit to the board any questionable application.

2.5(3) The board administrator shall keep accurate minutes of the meetings of the board. The board administrator shall keep a list of the names of persons issued certificates as certified public accountants, persons issued licenses as licensed public accountants, and all firms issued permits to practice.

2.5(4) The board administrator shall perform such additional administrative duties as are requested by the board or otherwise authorized by this chapter or the rules of the professional licensing and regulation division.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—2.6(542) Disclosure of confidential information.

2.6(1) Iowa Code section 542.4(5) prohibits members of the board from disclosing a final examination score to persons other than the one who took the examination. Persons who take the examination may consent to the publication of their names on a list of passing candidates.

2.6(2) Information relating to the examination results, including the specific grades by subject matter, shall be given only to the person who took the examination, except that the board may:

a. Disclose the specific grades by subject matter to the regulatory authority of any other state or foreign country in connection with the candidate's application for a reciprocal certificate or license from the other state or foreign country, but only if requested by the applicant.

b. Disclose the specific grades by subject matter to educational institutions, professional organizations, or others, provided the names of the persons taking the examination are not provided in conjunction with the scores.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—2.7(17A,21,22,272C,542) Uniform bureau rules. Administrative and procedural rules which are common to all boards in the bureau can be found in the rules of the professional licensing and regulation bureau.

2.7(1) Persons seeking waivers from board rules should review the uniform rules at 193—Chapter 5.

2.7(2) Rules outlining procedures regarding investigatory subpoenas can be found at 193—Chapter 6.

2.7(3) Rules regarding contested cases appear at 193—Chapter 7.

2.7(4) Rules regarding denial of issuance or renewal of license or license suspension or revocation for nonpayment of child support or debts owing to the state appear at 193—Chapter 8.

2.7(5) Rules outlining procedures for petitions for rule making are at 193—Chapter 9.

2.7(6) Rules regarding procedures to be followed when seeking declaratory orders can be found at 193—Chapter 10.

2.7(7) Rules regarding sales of goods and services by board or commission members appear at 193—Chapter 11.

2.7(8) Rules regarding impaired licensee review committees appear at 193—Chapter 12.

2.7(9) Rules covering public records and fair information practices appear at 193—Chapter 13.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 6123C, IAB 1/12/22, effective 2/16/22]

These rules are intended to implement Iowa Code chapters 17A, 21, 22, 272C and 542.

[Filed and effective 9/22/75 under ch 17A, C '73]

[Filed 6/24/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]

[Filed 10/9/80, Notice 9/3/80—published 10/29/80, effective 12/3/80]

[Filed 2/8/82, Notice 12/9/81—published 3/3/82, effective 4/7/82]

[Filed 6/22/88, Notice 3/9/88—published 7/13/88, effective 8/17/88]

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[Filed ARC 7715B (Notice ARC 7484B, IAB 1/14/09), IAB 4/22/09, effective 7/1/09]

[Filed ARC 2719C (Notice ARC 2598C, IAB 6/22/16), IAB 9/28/16, effective 11/2/16]

[Filed ARC 6123C (Notice ARC 5989C, IAB 10/20/21), IAB 1/12/22, effective 2/16/22]

CHAPTER 3
CERTIFICATION OF CPAs
[Prior to 7/13/88, see Accountancy, Board of[10]]

193A—3.1(542) Qualifications for a certificate as a certified public accountant.

3.1(1) A person of good moral character who makes application pursuant to Iowa Code section 542.6 may be granted a certificate as a certified public accountant if the person satisfies all of the following qualifications:

- a.* Satisfactory completion of the educational requirements of Iowa Code section 542.5(7) and rule 193A—3.2(542);
- b.* No less than one year of verified experience including the types of services described in Iowa Code section 542.5(12) and rule 193A—3.12(542); and
- c.* Successful completion of the examination described in Iowa Code section 542.5(8) and rule 193A—3.5(542) and the ethics course and examination outlined in 193A—3.13(542).

3.1(2) An application may be denied if the applicant:

- a.* Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, has been convicted of a crime described in Iowa Code section 542.5(2);
- b.* Has had a professional license of any kind revoked in this or any other jurisdiction, as provided in Iowa Code section 542.5(3);
- c.* Makes a false statement of material fact on an application for a certificate or is otherwise implicated in the submission of a false application as provided in Iowa Code section 542.5(4);
- d.* Has violated a provision of Iowa Code section 542.20 or has been assessed penalties pursuant to Iowa Code section 542.14 or 193A—Chapter 17;
- e.* Is the subject of a notice of noncompliance as provided in 193—Chapter 8;
- f.* Demonstrates a lack of moral character in a manner which the board reasonably believes will impair the applicant's ability to practice public accountancy in full compliance with the public interest and state policies described in Iowa Code section 542.2. While it is not possible to itemize all actions or behaviors which may demonstrate a lack of moral character, the following nonexclusive list of factors will guide the board in making its determination. However, the board shall not deny an application on the basis of an arrest that was not followed by a conviction based on a finding that because of that arrest the applicant lacks moral character.

(1) A pattern and practice of making false or deceptive representations, or of omitting material facts, while providing the public any of the services described in Iowa Code section 542.3(20);

(2) Fraud or dishonesty while advertising or selling goods or services to the public;

(3) Willful or repeated failure to timely file tax returns or other mandatory submittals due a governmental body;

(4) Fiscally irresponsible behavior in the absence of mitigating circumstances;

g. Is subject to discipline on any ground that would form the basis for discipline against a licensee;
or

h. Has had a practice privilege revoked in this or another jurisdiction.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 5562C, IAB 4/21/21, effective 5/26/21]

193A—3.2(542) Colleges or universities recognized by the board. Iowa Code section 542.5, in providing for educational qualifications for a certificate as a certified public accountant, refers to colleges or universities “recognized by the board.” For such purpose, the board recognizes the following educational accrediting institutions:

1. Middle States Commission on Higher Education (MSCHE);
2. Northwest Commission on Colleges and Universities (NWCCU);
3. Higher Learning Commission (HLC);
4. New England Commission of Higher Education (NECHE);
5. Southern Association of Colleges and Schools and Commission on Colleges (SACSCOC);
6. WASC Senior College and University Commission (WSCUC).

Alternatively, applicants may provide evidence of meeting equivalent accreditation requirements of the Higher Learning Commission (HLC).

This rule is intended to implement Iowa Code section 542.5.
[ARC 2152C, IAB 9/30/15, effective 11/4/15; ARC 6123C, IAB 1/12/22, effective 2/16/22]

193A—3.3(542) Accounting concentration.

3.3(1) A candidate will be deemed to have met the educational requirement if, as part of the 150 semester hours of education as outlined in Iowa Code section 542.5, the candidate has met one of the following four conditions:

a. Earned a graduate degree with a concentration in accounting from a program that is accredited in accounting by an accrediting agency recognized by the board.

b. Earned a graduate degree in business from a program that is accredited in business by an accrediting agency recognized by the board and completed at least 24 semester hours in accounting including courses covering the subjects of financial accounting, auditing, taxation, and management accounting. Such accounting hours shall not include elementary accounting or principles of accounting, internships or life experience.

c. Earned a baccalaureate degree in business or accounting from a program that is accredited in business by an accrediting agency recognized by the board and completed at least 24 semester hours in accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting. Such accounting hours shall not include elementary accounting or principles of accounting, internships or life experience.

d. Earned a baccalaureate or higher degree and completed the following hours from an accredited institution recognized by the board:

(1) At least 24 semester hours in accounting courses above elementary accounting or principles of accounting covering the subjects of financial accounting, auditing, taxation, and management accounting, not including internships or life experience; and

(2) At least 24 additional semester hours in business-related courses, not including internships or life experience. Elementary accounting hours that do not qualify under subparagraph 3.3(1) “d”(1) above may apply toward business-related courses.

Quarter hours will be accepted in lieu of semester hours at a 3:2 ratio; that is, three quarter hours is equivalent to two semester hours. Internships and life experience hours may apply toward the total 150 hours’ requirement.

3.3(2) The board will consider correspondence study and study in other schools not meeting the above requirements on an individual basis if the candidate can provide evidence that such study would be acceptable for credit by a college or university recognized by the board; provided, however, that at least 18 of the required hours in accounting and at least 16 of the required hours in business-related subjects must be obtained in a college or university recognized by the board.

3.3(3) The applicant’s claim to college or university credits must be confirmed by an official transcript of credit issued by the institution in question. The applicant shall be responsible for having such transcripts sent to the board’s test administrator at the time of making application. The applicant shall also be responsible for having any institution not listed under rule 193A—3.2(542) furnish the board evidence that it meets the accreditation requirements of the board.

3.3(4) Graduates of foreign colleges or universities shall have their education evaluated by a foreign credentials evaluation advisory service specified by the board.

193A—3.4(542) Examination applications.

3.4(1) An individual desiring to take the certified public accountant examination as an initial candidate should apply to the board’s test administrator. An application shall not be approved until complete in all respects. A complete application includes a completed application form, the designated fee, and all applicable college transcripts.

3.4(2) To be eligible to make application for the examination, a candidate shall fulfill the requirements of rule 193A—3.3(542).

3.4(3) Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, a candidate for the examination who has been convicted in a court of competent jurisdiction in this state, or another state, territory, or a district of the United States, or in a foreign jurisdiction of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, or of any crime involving moral character or dishonesty may be denied admittance to the examination by the board on the grounds of the conviction. For purposes of this subrule, “conviction” means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

3.4(4) A candidate for examination who has had a professional license of any kind revoked in this or any other jurisdiction may be denied admittance to the examination by the board on the grounds of the revocation.

3.4(5) A candidate who makes a false statement of material fact on an application for examination for a certificate, or who causes to be submitted or has been a party to preparing or submitting a false application for a certificate, may be denied a certificate by the board on the grounds of the false statement or submission.

3.4(6) A candidate may be considered as a reexamination applicant regardless of whether or not the candidate sat for the examination once initially approved. Reexamination applicants may apply by telephone to the board’s test administrator or may apply on-line if the technology is available.

3.4(7) A nonrefundable proctoring fee shall be collected from a candidate who wishes to be proctored in Iowa.

[ARC 5562C, IAB 4/21/21, effective 5/26/21]

193A—3.5(542) Content and grading of the examination.

3.5(1) The board may make use of the uniform certified public accountant’s examination prepared by the American Institute of Certified Public Accountants or another nationally recognized organization under a plan of cooperation with the boards of all states and territories of the United States.

3.5(2) The board may also make use of the advisory grading service provided by the American Institute of Certified Public Accountants or another nationally recognized organization under a plan of cooperation with the boards of all states and territories of the United States.

3.5(3) A grade of at least 75 in each subject shall be considered passing.

193A—3.6(542) Conditional requirements.

3.6(1) Effective with the implementation of the computer-based examination, a candidate may take the required test subjects individually and in any order. Except as provided in rule 193A—3.7(542), credit for any subjects passed shall be valid for 18 months from the actual date the candidate sat for the subject, without the candidate’s having to attain a minimum score on any failed subject(s) and without regard to whether the candidate sat for any other subjects. The candidate shall also be subject to the following:

a. The candidate must pass all four subjects of the examination within a rolling 18-month period that begins on the date that the first subject is passed. If all four subjects are not passed within the 18-month period, credit for any subject taken outside the 18-month period shall expire.

b. Subject to paragraph 3.6(1) “c,” if a candidate fails a subject, the candidate cannot retake the same failed subject in an examination window. An “examination window” refers to a three-month period in which a candidate has the opportunity to take the examination (comprised of two months when the examination is offered and one month when the examination will not be offered while routine maintenance is performed and the item bank is refreshed). Thus, the candidate will be able to sit for the examination two out of three months within an examination window.

c. If and when the board determines that examination system changes necessary to eliminate examination window limitations have been implemented, paragraph 3.6(1) “b” will no longer be effective

and a candidate will be permitted to retake a subject once the candidate's grade for any previous attempt of that same subject has been released.

3.6(2) A candidate shall be deemed to have passed the examination once the candidate holds, at the same time, valid credit for passing each of the four subjects of the examination. For purposes of this rule, credit for passing a subject of the examination is valid from the actual date of the testing event for that subject, regardless of the date the candidate actually received notice of the passing score.

This rule is intended to implement Iowa Code section 542.5.
[ARC 9482B, IAB 5/4/11, effective 6/8/11; ARC 4657C, IAB 9/11/19, effective 10/16/19]

193A—3.7(542) Extension of conditional status.

3.7(1) The time limit within which a candidate is required to pass all subjects under these rules shall not include any period during which the candidate was serving in the armed forces of the United States. This exception does not apply if the candidate takes an examination while so serving. The board may extend the time limit in particular instances on a case-by-case basis.

3.7(2) The time limit within which a candidate is required to pass all subjects under these rules may be extended for hardship cases, such as when the applicant for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, or a death in the family, verified in writing.

3.7(3) The time limit within which a candidate is required to pass all subjects under these rules may be extended if circumstances occur which prevent the score from an examination from reaching the candidate in a reasonable period of time. Such circumstances would allow the candidate the opportunity to retake a failed subject.

193A—3.8(542) Transfer of credit from another jurisdiction.

3.8(1) A candidate requesting transfer of grades from any other jurisdiction will be subject to the same provisions of these rules as an Iowa candidate, provided that the examination given by the licensing authority in the other state was an examination approved by the Iowa board.

3.8(2) A candidate requesting transfer of grades from any other jurisdiction who does not meet the provisions of these rules, but who meets all of the requirements for issuance of an original certificate in the examining state other than residency, may, at the board's discretion, be required to take at least one section of the examination designated by the board.

193A—3.9(542) Examination procedures.

3.9(1) At the examination, a candidate must provide evidence of identification with two forms of official documentation such as a driver's license, student identification, service identification, or passport that contains the candidate's photograph and signature.

3.9(2) The candidate may be photographed by the test administrator at each appearance for the examination. The test administrator may collect from the candidate a fee for the processing of the photograph.

3.9(3) Scratch paper and supplies furnished by the board's test administrator shall remain the administrator's property and must be returned whether used or not.

3.9(4) In the event that a computer malfunction or failure occurs while the examination is being conducted, the liability of the board or its test administrator will be limited to the fee paid by the applicant for the examination.

193A—3.10(542) Conduct of the examination.

3.10(1) Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of certification in Iowa, be barred from accountancy licensing and certification examinations in Iowa, or be subject to the imposition of other sanctions the board deems appropriate.

3.10(2) Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

a. Conduct which violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the licensing examination; aiding by any means in the reproduction or reconstruction of any portion of the licensing examination; selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

b. Conduct which violates the standards of test administration, such as communicating with any other examination candidate during the administration of the licensing examination; communicating with others outside of the examination site during the administration of the examination; copying answers from another candidate or permitting one's answers to be copied by another candidate during the administration of the examination; having in one's possession during the administration of the licensing examination any books, notes, written or printed materials or data of any kind, other than the examination materials distributed.

c. Conduct which violates the examination process, such as falsifying or misrepresenting educational credentials or other information required for admission to the licensing examination; impersonating an examination candidate or having an impersonator take the licensing examination on one's behalf.

3.10(3) Any examination candidate who wishes to appeal a decision of the board under this rule may request a contested case hearing. The request for hearing shall be in writing, shall briefly describe the basis for the appeal, and shall be filed in the board's office within 30 days of the date of the board decision being appealed. Any hearing requested under this subrule shall be governed by the rules applicable to contested case hearings under 193—Chapter 7.

193A—3.11(542) Refunding of examination fees. Examination fees shall not be refunded except in hardship cases, such as when the candidate for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, a death in the family, or a call to active military service, 50 percent of the fee may be returned. Written documentation including evidence of the hardship shall be provided to the board's test administrator.

193A—3.12(542) Experience for certificate.

3.12(1) Experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills. Experience may be gained through employment in government, industry, academia, or public practice.

3.12(2) One year of experience shall consist of full- or part-time employment that extends over a period of no less than one year and no more than three years and includes no fewer than 2,000 hours of performance of services outlined in subrule 3.12(1). Experience may be gained in more than one employment situation, including an internship.

3.12(3) An applicant seeking qualification as an attest CPA shall have at a minimum two years of experience as more fully described in 193A—subrule 6.3(1).

3.12(4) All experience shall be verified by a licensee with direct supervisory control over the applicant or by a licensee who can attest that the experience gained by the applicant meets the requirements of subrule 3.12(1) if the applicant is not supervised by a licensee.

3.12(5) Teaching experience shall be in the employment of an institution of higher education and shall include teaching a minimum of 24 semester hours of accounting courses for which the course participants receive credit on an official transcript. Teaching of noncredit continuing education courses shall not qualify under this rule.

193A—3.13(542) Ethics course and examination. A successful candidate shall also be required to pass an examination covering the code of ethical conduct prior to issuance of the certificate.

193A—3.14(542) Obtaining the certificate.

3.14(1) A candidate who successfully passes the examination, completes the ethics course and examination and meets all of the requirements outlined in rule 193A—3.1(542) shall make application

for the certificate on a form which may be obtained on the board's website. An applicant for a certificate may be denied the certificate for reasons outlined in subrule 3.4(3), 3.4(4), or 3.4(5) regardless of when the incident occurred.

3.14(2) A candidate who meets the requirements for a certificate outlined in rule 193A—3.1(542) shall file an application for a certificate within three years of the date of passing the examination. If the candidate does not file an application for a certificate within the required time frame, the candidate must comply with the basic continuing education requirements outlined in rule 193A—10.5(542) prior to filing an application. The required continuing education hours shall include a minimum of eight hours of continuing education every three years devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates, and a minimum of four hours of continuing education devoted to professional ethics. [ARC 9482B, IAB 5/4/11, effective 6/8/11; ARC 4243C, IAB 1/16/19, effective 2/20/19; ARC 6123C, IAB 1/12/22, effective 2/16/22]

193A—3.15(542) Use of title.

3.15(1) Only a person who holds an active, unexpired certificate and who complies with the requirements of 193A—Chapters 5 and 10 or a person lawfully exercising a practice privilege under Iowa Code section 542.20 may use or assume the title “certified public accountant” or the abbreviation “CPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.

3.15(2) Rules regarding the use of the title “CPA” in a firm name are found in the AICPA Code of Professional Conduct as adopted by reference in 193A—Chapter 13.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 9482B, IAB 5/4/11, effective 6/8/11; ARC 3230C, IAB 8/2/17, effective 9/6/17]

These rules are intended to implement Iowa Code chapter 542 and Iowa Code section 546.10.

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CHAPTER 4 LICENSURE OF LPAs

[Prior to 7/13/88, see Accountancy, Board of[10]]

193A—4.1(542) Qualifications for a license as a licensed public accountant.

4.1(1) A person of good moral character who makes application pursuant to Iowa Code section 542.8 may be granted a license as a licensed public accountant if the person satisfies all of the following qualifications:

- a.* Satisfactory completion of the educational requirements of Iowa Code section 542.8(1) and rule 193A—4.2(542);
- b.* No less than one year of verified experience including the types of services described in Iowa Code section 542.8(8) and rule 193A—4.12(542); and
- c.* Successful completion of the examination described in Iowa Code section 542.8(3) and rule 193A—4.7(542) and the ethics course and examination outlined in 193A—4.13(542).

4.1(2) An application may be denied if the applicant:

- a.* Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, has been convicted of a crime;
- b.* Has had a professional license of any kind revoked in this or any other jurisdiction;
- c.* Makes a false statement of material fact on an application for a license or is otherwise implicated in the submission of a false application;
- d.* Has been assessed penalties pursuant to Iowa Code section 542.14 or 193A—Chapter 17;
- e.* Is the subject of a notice of noncompliance as provided in 193—Chapter 8;
- f.* Demonstrates a lack of moral character in a manner that the board reasonably believes will impair the applicant's ability to practice public accountancy in full compliance with the public interest and state policies described in Iowa Code section 542.2. While it is not possible to itemize all actions or behaviors which may demonstrate a lack of moral character, the following nonexclusive list of factors will guide the board in making its determination. However, the board shall not deny an application on the basis of an arrest that was not followed by a conviction based on a finding that because of that arrest the applicant lacks moral character.

(1) A pattern and practice of making false or deceptive representations, or of omitting material facts, while providing any accounting services to the public;

(2) Fraud or dishonesty while advertising or selling goods or services to the public;

(3) Willful or repeated failure to timely file tax returns or other mandatory submittals due a governmental body;

(4) Fiscally irresponsible behavior in the absence of mitigating circumstances; or

g. Is subject to discipline on any ground that would form the basis for discipline against a licensee.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 5562C, IAB 4/21/21, effective 5/26/21]

193A—4.2(542) Examination application.

4.2(1) An individual desiring to take the examination to qualify for a license as a licensed public accountant shall apply to the board's test administrator.

4.2(2) To be eligible to take the examination, the applicant must meet the requirements of Iowa Code section 542.8(1) "b" at the time of filing the application.

4.2(3) Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, a candidate for the examination who has been convicted in a court of competent jurisdiction in this state, or another state, territory, or a district of the United States, or in a foreign jurisdiction of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, or of any crime involving moral character or dishonesty may be denied admittance to the examination by the board on the grounds of the conviction. For purposes of this subrule, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

4.2(4) A candidate for examination who has had a professional license of any kind revoked in this or any other jurisdiction may be denied admittance to the examination by the board on the grounds of the revocation.

[ARC 5562C, IAB 4/21/21, effective 5/26/21]

193A—4.3(542) Major in accounting. In determining whether the requirement in Iowa Code section 542.8(1) “b”(2) as to a “major in accounting” has been met, the board will follow the rules associated with a “concentration in accounting” outlined in 193A—paragraph 3.3(2) “c.”

193A—4.4(542) Transcripts required. The applicant’s claim to college, university, business school, or correspondence school credit must be confirmed by an official transcript issued by the institution. The applicant shall be responsible for having such transcripts sent to the board at the time of making application. The applicant shall also be responsible for having the institution furnish the board evidence that the institution meets the accreditation requirements of the board. The applicant is also responsible for all such material being in possession of the board by the deadline for filing the application; otherwise, the application shall be considered incomplete and disapproved by the board.

193A—4.5(542) Deadline for filing applications. Rescinded ARC 4243C, IAB 1/16/19, effective 2/20/19.

193A—4.6(79GA,ch55) Admittance prior to completing educational requirements. Rescinded IAB 2/16/05, effective 3/23/05.

193A—4.7(542) Content and grading of the examination.

4.7(1) The board may use the examination prepared by the Accreditation Council for Accountancy and Taxation. The examination shall not include any questions regarding auditing or attest functions.

4.7(2) The board may use the grading services provided by the Accreditation Council for Accountancy and Taxation.

4.7(3) The identity of the person taking the examination shall be concealed until after the examination papers have been graded. Absent a showing of good cause, the board shall accept the passing grade established by the Accreditation Council for Accountancy and Taxation.

4.7(4) Alternatively, an applicant may satisfy the examination requirement of this rule by passing the Financial Accounting and Reporting and Regulation sections of the CPA examination provided by the AICPA.

[ARC 6123C, IAB 1/12/22, effective 2/16/22]

193A—4.8(542) Conditioning requirements.

4.8(1) The time limit within which an applicant is required to pass all subjects under this rule shall not include any period during which the applicant was serving in the armed forces of the United States, unless the applicant takes an examination while so serving, in which case such time shall be included in computing the time limitation.

4.8(2) The time limit within which a candidate is required to pass all subjects under this rule may be extended for hardship cases, such as when the applicant for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, or a death in the family, verified in writing.

[ARC 6123C, IAB 1/12/22, effective 2/16/22]

193A—4.9(542) Examination procedures. The examination procedures to be followed by a candidate for the certified public accountants’ examination as outlined in rule 193A—3.8(542) shall also apply to a licensed public accountant examination candidate.

193A—4.10(542) Refunding of examination fees. Examination fees will not be refunded except as provided by the rules concerning the refunding of examination fees to an examination candidate for a certified public accountant certificate outlined in rule 193A—3.11(542).
[ARC 6123C, IAB 1/12/22, effective 2/16/22]

193A—4.11(542) Credit for an examination taken in another state. A candidate who has partially passed an examination in another state will be given credit for the part or parts passed, provided the candidate meets the conditioning requirements of the board and further provided the examination given by the licensing authority in the other state was an examination prepared and graded by the Board of Examiners of the American Institute of Certified Public Accountants or the Accreditation Council for Accountancy and Taxation.

193A—4.12(542) Experience for license.

4.12(1) Experience shall include providing any type of service or advice involving the use of accounting, compilation, management advisory, financial advisory, tax or consulting skills. Experience may be gained through employment in government, industry, academia, or public practice.

4.12(2) One year of experience shall consist of full- or part-time employment that extends over a period of no less than one year and no more than three years and includes no fewer than 2,000 hours of performance of services outlined in subrule 4.12(1). Experience may be gained in more than one employment situation, including an internship.

4.12(3) All experience shall be verified by a licensee with direct supervisory control over the applicant or by a licensee who can attest that the experience gained by the applicant meets the requirements of subrule 4.12(1) if the applicant is not supervised by a licensee.

4.12(4) Teaching experience shall be in the employment of an institution of higher education and shall include teaching a minimum of 24 semester hours of accounting courses for which the course participants shall receive credit on an official transcript. Teaching of noncredit continuing education courses shall not qualify under this rule.

193A—4.13(542) Ethics course and examination. A successful candidate shall also be required to pass an examination covering the code of ethical conduct prior to issuance of the license.

193A—4.14(542) Statements on standards for accounting and review services (SSARS) education. An LPA license applicant shall complete a minimum of seven hours of continuing education devoted to statements on standards for accounting and review services (SSARS) prior to issuance of the license. An LPA license applicant is exempt from this requirement if the applicant has passed the CPA examination provided by the AICPA.

193A—4.15(542) Obtaining the license. A candidate who successfully passes the examination and completes the requirements outlined in rules 193A—4.12(542), 193A—4.13(542) and 193A—4.14(542) shall make application for licensure on a form available through the online application process. An applicant shall list on the application all states in which the applicant has applied for or holds a certificate, license or permit and shall also list any past denial, revocation, suspension, refusal to renew, or voluntary surrender to avoid disciplinary action of a certificate, license or permit. An applicant shall notify the board in writing within 30 days after the occurrence of any issuance, denial, revocation, suspension, refusal to renew, or voluntary surrender to avoid disciplinary action of a certificate, license or permit by another state. An applicant for licensure may be denied the license for reasons outlined in subrule 4.1(2) regardless of when the incident occurred.

[ARC 4243C, IAB 1/16/19, effective 2/20/19]

193A—4.16(542) Licensure by reciprocity.

4.16(1) The examination required by Iowa Code section 542.8 will be waived for an applicant who has passed the examination required under the laws of another state, provided the examination given by the licensing authority of the other state was an examination prepared and graded by the Board of

Examiners of the American Institute of Certified Public Accountants or the Accreditation Council for Accountancy and Taxation.

4.16(2) For the purpose of Iowa Code section 542.8, the title by which such other state designates its accountants shall not be controlling, but the matter shall be controlled by substantive requirements, whether such accountants be called licensed public accountants, public accountants, accounting practitioners or any other similar title.

4.16(3) A person desiring a license as a licensed public accountant in this state on the basis of a licensed public accountant license issued by another state must apply through the online application process. The burden is on the applicant to obtain information satisfactory to the board that the applicant's license in such other state is in full force and effect and that the requirements for obtaining such license were substantially equivalent to those of this state to obtain a license as a licensed public accountant.

4.16(4) An applicant shall list on the application all states in which the applicant has applied for or holds a certificate, license or permit and shall also list any past denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a certificate, license, or permit. An applicant shall notify the board in writing within 30 days after the occurrence of any issuance, denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a certificate, license or permit by another state.

4.16(5) An applicant shall affirm that all information provided on the form is true and correct. Providing false information shall be considered prima facie evidence of a violation of Iowa Code chapter 542. A nonrefundable application fee will be charged each applicant.

[ARC 4243C, IAB 1/16/19, effective 2/20/19]

193A—4.17(542) Use of title. Only a person holding a license as a licensed public accountant shall use or assume the title “licensed public accountant” or the abbreviation “LPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a licensed public accountant.

These rules are intended to implement Iowa Code section 542.8.

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CHAPTER 6 ATTEST AND COMPILATION SERVICES

193A—6.1(542) Who may perform attest services.

6.1(1) Only a CPA may perform audit, review, or other attest services, as defined in Iowa Code section 542.3(1).

6.1(2) CPAs who perform attest services in Iowa or for a client with a home office in Iowa must hold an active Iowa CPA certificate or exercise a practice privilege under Iowa Code section 542.20. CPAs are cautioned, however, that the auditor of state, the department of agriculture and land stewardship, another governmental official or body, or a client may require that an individual be licensed in Iowa as a condition of performing attest services in Iowa or for a client with a home office in Iowa, whether or not the individual may otherwise satisfy the conditions for a practice privilege. Iowa licensure as a certified public accountant is required, for example, to perform certain audit services described in Iowa Code chapter 11.

6.1(3) CPAs performing attest services, whether the CPAs are certified in Iowa or exercising a practice privilege, must do so in a CPA firm that holds a permit to practice pursuant to Iowa Code section 542.7 or in an out-of-state CPA firm exercising a practice privilege in compliance with Iowa Code sections 542.20(5) and 542.20(6) and associated rules and the peer review and ownership provisions of Iowa Code section 542.7.

6.1(4) CPAs who are responsible for supervising attest services for a CPA firm or who sign or authorize someone to sign the accountant's report on behalf of a CPA firm shall satisfy the experience or competency requirements established by nationally recognized professional standards that are applicable to the attest services performed and shall, at a minimum, satisfy the experience requirements of rule 193A—6.2(542).

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 0413C, IAB 10/31/12, effective 12/5/12; ARC 2152C, IAB 9/30/15, effective 11/4/15; ARC 3422C, IAB 10/25/17, effective 11/29/17]

193A—6.2(542) Attest experience required.

6.2(1) A CPA who is responsible for supervising attest services or who signs or authorizes someone to sign the accountant's report on behalf of a firm shall have two years of full-time or part-time equivalent experience that extends over a period of no less than two years and includes no fewer than 4,000 hours, at least 2,000 of which shall be in providing attest services under the supervision of one or more CPAs responsible for supervising attest services on behalf of a CPA firm that holds a permit to practice in Iowa or an equivalent form of CPA firm licensure in another jurisdiction.

6.2(2) Experience shall include all of the following:

- a. Experience in applying a variety of attest procedures and techniques to the usual and customary financial transactions recorded in accounting records.
- b. Experience in the preparation of attest working papers covering the examination of the accounts usually found in accounting records.
- c. Experience in the planning of the program of attest work including the selection of the procedures to be followed.
- d. Experience in the preparation of written explanations and comments on the findings of the examinations and on the content of the accounting records.
- e. Experience in the preparation and analysis of reports and financial statements together with explanations and notes thereon.

6.2(3) Verification of attest experience shall be provided by the applicant and by a CPA who supervised the applicant or, if a supervising CPA is unavailable, by a CPA or CPA firm with sufficient factual documentation to verify the applicant's attest qualification.

6.2(4) Any applicant or CPA who has been requested to submit to the board evidence of an applicant's attest experience and has refused to do so shall, upon request by the board, explain in writing or in person the basis for the refusal. The board may require any applicant or CPA who furnished the evidence of an applicant's experience to substantiate the information provided. An applicant may be

required to appear before the board to supplement or verify evidence of experience. The board may inspect documentation relating to an applicant's claimed experience.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 2152C, IAB 9/30/15, effective 11/4/15; ARC 6123C, IAB 1/12/22, effective 2/16/22]

193A—6.3(542) Attest qualification.

6.3(1) Attest qualification is required before a CPA may perform attest services in Iowa or for a client with a home office in Iowa. "Attest qualification" or "attest qualified" means that the CPA has satisfied the experience requirements of rule 193A—6.2(542).

6.3(2) All CPAs who held an individual permit to practice in Iowa at any point prior to July 1, 2002, are deemed to be attest qualified. Under Iowa law prior to July 1, 2002, CPAs were only issued an individual permit to practice if they verified qualification to perform attest services. Individual permits to practice were discontinued under Iowa law effective July 1, 2002.

6.3(3) CPAs who did not hold a permit to practice prior to July 1, 2002, may attain or establish attest qualification as follows:

a. Applicants may apply for attest qualification when initially applying for a certificate as an Iowa CPA under Iowa Code section 542.6 or when applying for reciprocal Iowa certification under Iowa Code section 542.19 or any other applicable law or rule.

b. Iowa CPA certificate holders may apply for attest qualification at any time at which they are qualified to do so.

c. Out-of-state CPAs performing attest services while exercising a practice privilege under Iowa Code section 542.20 are not required to individually apply to the board for attest qualification. However, if:

(1) CPAs perform attest services in an Iowa CPA firm, the Iowa CPA firm shall affirm when applying for an initial or renewal firm permit to practice that the CPAs who supervise attest services for the firm or who sign or authorize someone to sign the accountant's report on behalf of the firm, as such attest services are or will in the following year be performed in Iowa or for a client with a home office in Iowa, have been qualified to perform attest services in Iowa or another jurisdiction.

(2) CPAs perform attest services through an out-of-state CPA firm exercising a practice privilege, the out-of-state CPA firm shall affirm upon request from the board that the CPAs who supervise attest services for the firm or who sign or authorize someone to sign the accountant's report on behalf of the firm, as such attest services are or will in the following year be performed in Iowa or for a client with a home office in Iowa, have been qualified to perform attest services in Iowa or another jurisdiction.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 2152C, IAB 9/30/15, effective 11/4/15; ARC 3422C, IAB 10/25/17, effective 11/29/17; ARC 5562C, IAB 4/21/21, effective 5/26/21]

193A—6.4(542) Compilation services.

6.4(1) Only a CPA licensed by the board under Iowa Code section 542.6 or 542.19, or any other applicable law or rule; an LPA licensed by the board under Iowa Code section 542.8 or any other applicable law or rule; or a person exercising a practice privilege under Iowa Code section 542.20 shall issue a report in standard form upon a compilation of financial information or otherwise provide compilation services in Iowa or for a client with a home office in Iowa.

6.4(2) An individual described in subrule 6.4(1) may perform compilation services through a CPA firm which holds a permit to practice under Iowa Code section 542.7, an LPA firm which holds a permit to practice under Iowa Code section 542.8, a CPA firm exercising a practice privilege under Iowa Code section 542.20, or, if both the individual and business comply with the requirements of Iowa Code section 542.13(13), through any other form of business.

6.4(3) All individuals described in subrule 6.4(1) who are responsible for supervising compilation services or who will sign or authorize someone to sign the accountant's compilation report on financial statements, as such compilation services will be performed in Iowa or for a client with a home office in Iowa, shall comply with the nationally recognized professional standards that are applicable to compilation services, including SSARS.

6.4(4) All individuals described in subrule 6.4(1) shall satisfy peer review requirements, individually or through the peer review of a CPA or LPA firm holding a permit to practice pursuant to Iowa Code section 542.7 or 542.8 or a CPA firm exercising a practice privilege under Iowa Code section 542.20.
[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 5562C, IAB 4/21/21, effective 5/26/21]

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CHAPTER 9 RECIPROCITY AND SUBSTANTIAL EQUIVALENCY

193A—9.1(542) Iowa CPA certificate required. A person who holds a certificate or license to practice as a CPA in another state or a substantially equivalent designation from a foreign jurisdiction may apply to the board for an Iowa CPA certificate and must do so if the person plans to establish the person's principal place of business as a CPA in Iowa.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—9.2(542) Application forms. Application forms shall be completed and submitted through the online application process. An applicant shall attest that all information provided on the form is true and accurate. An application may be denied based on a false statement of material fact. A nonrefundable fee shall be charged each applicant as provided in 193A—Chapter 12.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 4243C, IAB 1/16/19, effective 2/20/19]

193A—9.3(542) Background and character.

9.3(1) An applicant for a CPA certificate under this chapter shall disclose on the application all background and character information requested by the board including, but not limited to:

- a.* All states or foreign jurisdictions in which the applicant has applied for or holds a CPA certificate or license, or a substantially equivalent designation from a foreign country;
- b.* Any past denial, revocation, suspension, or refusal to renew a CPA certificate, license or permit to practice, or voluntary surrender of a CPA certificate, license or permit to resolve or avoid disciplinary action, or similar actions concerning a substantially equivalent foreign designation;
- c.* Any other form of discipline imposed against the holder of a CPA certificate, license or permit, or a substantially equivalent foreign designation;
- d.* The conviction of any felony or any crime described in Iowa Code section 542.5(2);
- e.* The revocation of a professional license of any kind in this or any other jurisdiction; and
- f.* Such additional information as the board may require to determine if grounds exist to deny certification under 193A—subrule 3.1(2).

9.3(2) The board may deny an application based on prior discipline imposed against the holder of a CPA certificate, license or permit, or a substantially equivalent foreign designation, or on any of the grounds listed in 193A—subrule 3.1(2).

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—9.4(542) Verification of state licensure. An applicant holding a CPA certificate or license from another state or states shall submit verification that the applicant's CPA certificate or license is valid and in good standing in the state in which the applicant's principal place of business is located. An applicant applying for a CPA certificate under the substantial equivalency provisions of Iowa Code section 542.19(1) "a" and paragraph 9.5(1) "a" may attach a letter of good standing to the application. Such letter of good standing shall be prepared by the state in which the applicant's principal place of business is located and shall be dated within six months of the date of the application. To expedite the application process, the board will accept verification from another state's board by facsimile or email. The board reserves the right to request an original verification document directly from another state board.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—9.5(542) Qualifications for a CPA certificate.

9.5(1) A person who holds in good standing a valid CPA certificate or license from another state shall be deemed qualified for an Iowa CPA certificate if the person satisfies one of the following three conditions:

- a. Substantially equivalent state.* The licensing standards on education, examination and experience of the state which issued the applicant's CPA certificate or license were, at the time of licensure, comparable or superior to the education, examination and experience requirements of Iowa Code chapter 542 in effect at the time the application is filed in Iowa. The board may accept

the determination of substantial equivalency made by the National Association of State Boards of Accountancy or may make an independent determination of substantial equivalency.

b. Individual substantial equivalency. The applicant's individual qualifications on education, examination and experience are comparable or superior to the education, examination and experience requirements of Iowa Code chapter 542 in effect at the time the application is filed in Iowa.

c. "Four-in-ten rule." The applicant satisfies all of the following:

(1) The applicant passed the examination required for issuance of the applicant's certificate or license with grades that would have been passing grades at the time in this state.

(2) The applicant has had at least four years of experience within the ten years immediately preceding the application which occurred after the applicant passed the examination upon which the CPA certificate or license was based and which in the board's opinion is substantially equivalent to that required by Iowa Code section 542.5(12).

(3) If the applicant's CPA certificate or license was issued more than four years prior to the filing of the application in this state, the applicant has fulfilled the continuing professional education requirements described in Iowa Code section 542.6(3) and 193A—Chapter 10.

9.5(2) A person who holds in good standing a certificate, license or designation from a foreign authority that is substantially equivalent to an Iowa CPA certificate shall be deemed qualified for an Iowa CPA certificate if the person satisfies all of the provisions of Iowa Code section 542.19(3). The burden is on the applicant to demonstrate that such certificate, license or foreign designation is in full force and effect and that the requirements for that certificate, license or foreign designation are comparable or superior to those required for a CPA certificate in this state. Original verification from the foreign authority which issued the certificate, license or designation shall be required to demonstrate that such certificate, license or designation is valid and in good standing. If the applicant cannot establish comparable or superior qualifications, the board shall require that the applicant pass the uniform certified public accountant examination designed to test the applicant's knowledge of practice in this state and country. If the applicant is a Canadian Chartered Accountant, Australian Chartered Accountant, Hong Kong CPA, Ireland Chartered Accountant, Mexico Contador Público Certificado (CPC), New Zealand Chartered Accountant, Scottish Chartered Accountant, or South African Chartered Accountant, the applicant may be required to take the International Uniform CPA Qualification Examination (IQEX) in lieu of the uniform certified public accountant examination.

9.5(3) An applicant seeking an Iowa CPA certificate based on the provisions of 9.5(1) "b," 9.5(1) "c" or 9.5(2) shall submit such supporting information on education, examination or experience as the board deems reasonable to determine whether the applicant qualifies for licensure in Iowa.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 2719C, IAB 9/28/16, effective 11/2/16; ARC 4243C, IAB 1/16/19, effective 2/20/19; ARC 6123C, IAB 1/12/22, effective 2/16/22]

193A—9.6(542) Continuing requirements. A person issued a CPA certificate under this chapter is subject to all laws and rules governing persons holding CPA certificates issued in this state including, without limitation, those concerning continuing education, peer review, and notification of crimes and professional discipline. However, a person issued a CPA certificate under this chapter who maintains the principal place of business in a different state and who maintains in good standing a valid CPA certificate or license in that state shall be deemed to have satisfied the continuing education and peer review requirements described in 193A—Chapters 10 and 11 if the person satisfies similar requirements in the state in which the principal place of business is located.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—9.7(542) Expedited application processing. A person applying for a CPA certificate under the substantial equivalency provisions of Iowa Code section 542.19(1) "a" often desires expedited application processing to facilitate cross-border practice. Applications by such persons are especially suitable for rapid processing given the substantially equivalent standards previously enforced in another state. Unless such application reveals grounds to deny the application under subrule 9.3(2), the board is otherwise aware of such grounds, or the application is unaccompanied by the proper fee, the board's administrator shall approve an application which qualifies under Iowa Code section 542.19(1) "a" as

rapidly as feasible and shall deem the effective date of approval to practice in Iowa to be the date the board received the completed application with timely letter of good standing in a substantially equivalent state.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

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CHAPTER 10
CONTINUING EDUCATION
[Prior to 7/13/88, see Accountancy, Board of[10]]

193A—10.1(542) Scope. The right to use the title “Certified Public Accountant” and “Licensed Public Accountant” is regulated in the public interest and imposes a duty on accounting professionals to maintain public confidence and current knowledge, skills, and abilities in all areas of services. CPAs and LPAs must accept and fulfill their ethical responsibilities to the public and the profession regardless of their fields of employment.

10.1(1) The development of professional competence involves a continued commitment to learning and professional improvement. A CPA and an LPA performing professional services must have a broad range of knowledge, skills and abilities. A program that promotes professional competence in the practice of accountancy is defined as one that refers to the process, methods, or principles of accounting or is directly related to the CPA’s and LPA’s employment and is above the level of the CPA’s and LPA’s current knowledge.

10.1(2) Acceptable subjects for continuing professional education include accounting, assurance/auditing, consulting services, specialized knowledge and applications, management, taxation, and ethics. Other subjects, including nontechnical professional skills, may be approved by the board if they maintain or improve CPAs’ and LPAs’ competence in their current employment.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.2(542) Definitions. The following definitions shall be applicable to the rules of this chapter.

“Continuing professional education (CPE)” means education that is acquired by a licensee in order to maintain, improve, or expand skills and knowledge present at initial licensure or to develop new and relevant skills and knowledge.

“Firm meeting” means a formally arranged gathering/assembly of staff or management groups or both to inform them of administrative matters.

“Formal program” means a structured learning activity based on clearly defined learning objectives and outcomes that articulate achievable knowledge, skills and abilities.

“In-house or on-site training” means a formally organized professional educational program sponsored by the employer.

“Live instruction” means an educational program delivered in a classroom setting or through videoconferencing whereby the instructor and student carry out essential tasks while together. Examples include distance learning and Webcasts.

“Nontechnical professional skills” means formal programs of learning which contribute to the professional competence of a certificate holder or license holder in fields of study that indirectly relate to the holder’s field of business. “Nontechnical professional skills” includes, but is not limited to, the following programs or courses:

1. Communication;
2. Interpersonal management;
3. Leadership and personal development;
4. Client and public relations;
5. Practice development;
6. Marketing;
7. Motivational and behavioral; and
8. Speed reading and memory building.

“Qualified instructor” means an individual whose training and experience adequately prepares the individual to carry out specified training assignments.

“Self-study” means a computer-generated program, such as CD-ROM, or written materials or exercises intended for self-study which do not include simultaneous interaction with an instructor but do include tests transmitted to the provider for review and grading.

“Technical professional skills” means formal programs of learning which contribute to the professional competence of a certificate holder or license holder in fields of study that directly relate

to the holder's field of business. "Technical professional skills" includes, but is not limited to, the following programs or courses:

1. Auditing standards or procedures;
2. Compilation and review of financial statements;
3. Financial statement preparation and disclosures;
4. Attestation standards and procedures;
5. Projection and forecast standards or procedures;
6. Accounting and auditing;
7. Management advisory services;
8. Personal financial planning;
9. Taxation;
10. Management information systems;
11. Budgeting and cost analysis;
12. Asset management;
13. Professional ethics;
14. Specialized areas of industry;
15. Human resource management;
16. Economics;
17. Business law;
18. Mathematics, statistics and quantitative applications in business;
19. Business management and organization;
20. General computer skills, computer software training, information technology planning and management;
21. Operations management, inventory, and production; and
22. Negotiation or dispute resolution.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.3(542) Applicability. Each active certificate holder or license holder, including persons working in private industry or education, is required to comply with the continuing professional education requirements as a condition precedent to the renewal of the certificate or license.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.4(542) Cost of continuing professional education. All costs of complying with the continuing professional education requirements of the board are the responsibility of the certificate holder or license holder wishing to maintain registration in this state.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.5(542) Basic requirement.

10.5(1) Except as provided in subrules 10.5(2) to 10.5(7), an applicant for renewal shall have completed 120 hours of qualifying continuing professional education during the three-year period ending on the December 31 or June 30 preceding the July 1 renewal date of the certificate or license. The following conditions shall apply:

a. On each renewal, a CPA or LPA shall self-select December 31 or June 30 as the date by which continuing education requirements must be satisfied in order to be eligible to renew the certificate or license.

b. A CPA or LPA applying to renew a certificate or license may declare a continuing education deadline of December 31 in one renewal cycle and a continuing education deadline of June 30 in a subsequent renewal cycle, and vice versa.

c. Licensees shall maintain continuing education records in a manner that corresponds with the self-selected continuing education deadline of December 31 or June 30.

d. When declaring a June 30 continuing education deadline, licensees must be cautious to ensure that the continuing education is fully completed on or prior to the date the renewal application is submitted to the board.

e. Licensees who renew with penalty during the 30-day grace period following June 30 must declare either December 31 or June 30 as the continuing education deadline and may not extend the deadline beyond June 30.

10.5(2) At the first annual renewal date of July 1 that is less than 12 months from the date of filing of the initial application for the certificate or license, the certificate holder or license holder shall not be required to report continuing professional education.

10.5(3) At the annual renewal date of July 1 that is 12 months or more than 12 months, but less than 24 months, from the date of filing of the initial application for the certificate or license, the certificate holder or license holder shall report 40 hours of continuing professional education earned in the one-year period ending December 31 or June 30 prior to the July 1 renewal date.

10.5(4) At the annual renewal date of July 1 that is 24 months or more than 24 months, but less than 36 months, from the date of filing of the initial application for the certificate or license, the certificate holder or license holder shall report 80 hours of continuing professional education earned in the two-year period ending December 31 or June 30 prior to the July 1 renewal date.

10.5(5) A licensee shall be deemed to have complied with the requirements of this rule if, for the period that the licensee is a resident of another state or district having a continuing professional education requirement, the licensee met the resident state's mandatory requirement.

10.5(6) The board shall have authority to make exceptions for reasons of individual hardship including health, certified by a medical doctor, military service, foreign residency, retirement, or other good cause. No exceptions shall be made solely because of age. Applicants entitled to a full or partial exception under the provisions of Iowa Code section 272C.2(4) for active military service or government service outside of the United States may request an exception by submitting acceptable documentation as applicable to the exception requested. Applicants seeking an exception on other grounds of undue hardship must submit an application for waiver as provided in 193—Chapter 5.

10.5(7) Licensees who apply to reinstate a lapsed or inactive certificate or license to active status pursuant to 193A—subrule 5.6(3) or 5.9(7) shall satisfy the basic requirement of 120 hours of continuing professional education earned in the preceding three-year period prior to the date of the application, including all required mandatory education described in rule 193A—10.7(542). Once the certificate or license is reinstated, the basic requirement shall apply at each subsequent renewal. The 120-hour requirement described in this subrule shall be modified as needed to incorporate the phase-in schedule for initial licensees described in subrules 10.5(2) to 10.5(4).

[ARC 9002B, IAB 8/11/10, effective 1/1/11; ARC 1360C, IAB 3/5/14, effective 4/9/14; ARC 2152C, IAB 9/30/15, effective 11/4/15; ARC 4243C, IAB 1/16/19, effective 2/20/19; ARC 6123C, IAB 1/12/22, effective 2/16/22]

193A—10.6(542) Measurement standards. The following standards will be used to measure the hours of credit to be given for qualifying continuing professional education programs completed by individual applicants:

10.6(1) Credit is measured with one 50-minute period equaling one contact hour of credit. Half-hour credits may be allowed (equal to not less than 25 minutes) after the first hour of credit has been earned.

10.6(2) Only class hours or the equivalent, and not student hours devoted to preparation, will be counted.

10.6(3) Credit expressed as continuing education units (CEUs) shall be counted as ten contact hours for each continuing professional education unit. (.1 CEU = 1 CPE)

10.6(4) Service as lecturer or discussion leader of continuing professional education programs will be counted to the extent that this service contributes to the applicant's professional competence.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.7(542) Mandatory education required.

10.7(1) Every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report on behalf of a firm shall complete, as a condition of certificate or license renewal, a minimum of eight hours of continuing professional education devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and

auditing updates. When required, the financial statement presentation continuing education shall be completed within the three-year period ending on the December 31 or June 30 preceding the application for certificate or license renewal. For credit to be claimed for a course covering multiple topics, a minimum of one hour as outlined in subrule 10.6(1) shall be devoted to financial statement presentation. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to financial statement presentation, then only one hour shall be claimed toward meeting the requirement of this subrule.

10.7(2) Every CPA certificate holder or LPA license holder shall complete a minimum of four hours of continuing education devoted to ethics and rules of professional conduct during the three-year period ending December 31 or June 30, prior to the July 1 annual renewal date. For a course to qualify to meet this requirement, the course description shall clearly outline the subject matter covered as professional or business ethics. If credit is to be claimed for a course covering multiple topics, a minimum of one hour as outlined in rule 193A—10.6(542), measurement standards, specifically in subrule 10.6(1), shall be devoted to business or professional ethics. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to business or professional ethics, then only one hour shall be claimed toward meeting the requirement of this subrule. Ethics courses, which are defined as courses dealing with regulatory and behavioral ethics, shall be limited to courses on the following:

- a. Professional standards;
- b. Licenses and renewals;
- c. SEC oversight;
- d. Competence;
- e. Acts discreditable;
- f. Advertising and other forms of solicitation;
- g. Independence;
- h. Integrity and objectivity;
- i. Confidential client information;
- j. Contingent fees;
- k. Commissions;
- l. Conflicts of interest;
- m. Full disclosure;
- n. Malpractice;
- o. Record retention;
- p. Professional conduct;
- q. Ethical practice in business;
- r. Personal ethics;
- s. Ethical decision making; and
- t. Corporate ethics and risk management as these topics relate to malpractice and relate solely to the practice of certified public accounting.

[ARC 9002B, IAB 8/11/10, effective 1/1/11; ARC 2152C, IAB 9/30/15, effective 11/4/15; ARC 3422C, IAB 10/25/17, effective 11/29/17]

193A—10.8(542) Programs that qualify and CPE limitations.

10.8(1) The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of an individual certified or licensed in this state. It will be left to each individual certificate holder or license holder to determine the technical or nontechnical professional skills courses of study to be pursued. Thus, the auditor may study accounting and auditing, the tax practitioner may study taxes, and the management advisory services practitioner may study subjects related to such practice. Job-related continuing professional education shall qualify as acceptable provided the courses selected from nontechnical professional skills contribute to the professional competence of the certificate holder or license holder.

10.8(2) Program standards:

a. Learning activities must be based on clearly defined, relevant learning objectives and outcomes that clearly articulate the knowledge, skills, and abilities that can be achieved by participants.

b. Learning activities must be developed in a manner consistent with the prerequisite education, experience, and advanced preparation of the participants.

c. Activities, materials, and delivery systems must be current, technically accurate, and effectively designed. Providers, sponsors, or contractors must be competent in the subject matter. Competence may be demonstrated through practical experience or education.

d. Learning programs must be reviewed by qualified persons other than those who develop the program to ensure that the program is technically accurate and current and addresses the stated learning objectives. This requirement is waived for single presentations such as lectures that are given once.

10.8(3) Continuing professional education programs will qualify only if:

a. An outline of the program is prepared in advance and preserved.

b. The program is at least one hour (50-minute period) in length.

c. The program is conducted by a qualified instructor, discussion leader or lecturer. A qualified instructor, discussion leader or lecturer is anyone whose background, training, education or experience makes it appropriate for that person to lead a discussion on the subject matter of the particular program.

d. A record of attendance or certification of completion or transcript is maintained.

10.8(4) The following programs are deemed to qualify provided all other requirements of this rule are met.

a. Professional development programs of recognized national and state accounting organizations.

b. Technical sessions at meetings of recognized national and state accounting organizations and their chapters.

c. Formally organized in-house or on-site educational programs provided by the certificate holder's or license holder's employer.

d. Distance learning programs or group study Webcast programs.

e. University or college courses meet the continuing professional education requirements of those attending.

Each semester hour shall be equal to 15 contact hours of credit. Each quarter hour shall be equal to 10 contact hours of credit.

f. Technical or nontechnical sessions offered by employers in business and industry, as well as firms of certified public accountants.

10.8(5) Formal correspondence and formal self-study programs contributing directly to the professional competence of an individual that require registration and provide evidence of satisfactory completion will be considered for credit. The amount of credit to be allowed for correspondence and formal self-study programs (including tested study programs) shall be recommended by the program sponsor and based upon appropriate "field tests" and shall not exceed 50 percent of the renewal requirement. A licensee claiming credit for correspondence or formal self-study courses is required to obtain evidence of satisfactory completion of the course from the program sponsor. Credit will be allowed in the renewal period in which the course is completed.

10.8(6) Credit may be allowed for self-study programs on the basis of one hour of credit for each 50 minutes spent on the self-study program if the developer of such programs is approved by either the national continuing professional education registry or by the NASBA continuing education registry and the program sponsor has not designated the amount of credit to be claimed for completing the course of study. The licensee must estimate the equivalent number of hours and justify the amount of hours claimed. The maximum credit shall not exceed 50 percent of the renewal requirement. Credit will be allowed in the renewal period in which the course is completed.

10.8(7) The credit allowed an instructor, discussion leader, or speaker will be on the basis of two hours for subject preparation for each hour of teaching. Credit for teaching college or university coursework may be claimed for courses taught above the elementary accounting or principles of accounting level. Repetitious presentations shall not be considered. The maximum credit for such preparation and teaching shall not exceed 50 percent of the renewal period requirement.

10.8(8) Credit may be awarded for published articles and books. The amount of credit so awarded will be determined by the board. Credit may be allowed for published articles and books provided they contribute to the professional competence of the licensee. Credit for preparation of such publications may be given on a self-declaration basis up to 25 percent of the renewal period requirement. In exceptional circumstances, a licensee may request additional credit by submitting the article(s) or book(s) to the board with an explanation of the circumstances that the licensee believes justify additional credit.

10.8(9) Credit may be allowed for the successful completion of professional examinations as detailed below. Credit is calculated at the rate of five times the length of each examination, which is presumed to include all preparation time, claimed in the calendar year of the examination, and limited to 50 percent of the total renewal requirement.

- a. Certified Management Accountant/CMA.
- b. Certified Information Systems Auditor/CISA.
- c. Certified Information Technology Professional/CITP.
- d. Certified Financial Planner/CFP.
- e. Enrolled Agent/EA.
- f. Certified Governmental Financial Manager/CGFM.
- g. Certified Government Auditing Professional/CGAP.
- h. Certified Internal Auditor/CIA.
- i. Accredited Business Valuation/ABV.
- j. Certified Financial Forensics/CFF.
- k. Certified Valuation Analyst/CVA.
- l. Certified Insolvency & Restructuring Advisor/CIRA.
- m. Forensic Certified Public Accountant/FCPA.
- n. Certified Fraud Examiner/CFE.
- o. Certified Business Analyst/CBA.
- p. Certified Trust and Financial Advisor/CTFA.
- q. Chartered Financial Analyst/CFA.
- r. Registered Representative, Series 6 and 7 and other examinations.
- s. Registered Investment Advisor/RIA.
- t. Certified Forensic Accountant/CrFA.
- u. Personal Financial Specialist/PFS.
- v. Chartered Life Underwriter/CLU.
- w. Fellow of the Society of Actuaries/FSA.
- x. Chartered Property & Casualty Underwriter/CPCU.
- y. Fellow Life Management Institute/FLMI.
- z. Other similar examinations approved by the board.

10.8(10) Firm meetings for staff or management groups for the purpose of administrative and firm matters do not meet the standards set forth in subrule 10.8(1).

10.8(11) Dinner, luncheon and breakfast meetings of recognized organizations may qualify if they meet the appropriate requirements and shall be limited to 25 percent of the total renewal requirements if the individual meeting is no more than two hours long.

10.8(12) Continuing professional education taken in nontechnical skills area as defined in rule 193A—10.2(542) shall be limited to 50 percent of the total renewal requirement.

10.8(13) The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

10.8(14) The right is specifically reserved to the board to approve or deny credit for continuing professional education claimed under these rules.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.9(542) Controls and reporting.

10.9(1) An applicant for renewal may be requested to provide, in such manner, including but not limited to the online renewal process, and at such time as prescribed by the board, verification and

documentation setting forth the continuing professional education in which the licensee has participated. The board may allow for attestation that the licensee has met the requirements in lieu of providing a listing. If the applicant for renewal is requested to provide a listing of the continuing professional education completed, the documentation shall include:

- a. School, firm or organization conducting the course and contact information.
- b. Location of course.
- c. Title of course or description of content.
- d. Principal instructor.
- e. Dates attended.
- f. Hours claimed.
- g. Certificate of completion.
- h. Name of participant.
- i. Course field of study.
- j. Type of instruction or delivery method.
- k. Amount of CPE recommended.
- l. Verification by CPE program sponsor representative.

Canceled checks and registration forms are NOT proof of attendance.

10.9(2) The board may require sponsors of courses to furnish an attendance record, a certification of completion or any other information the board deems essential for administration of these continuing professional education rules.

10.9(3) The board will verify, on a test basis, information submitted by licensees. If an application for renewal is not approved, the applicant will be so notified and may be granted a period of time by the board in which to correct the deficiencies noted.

10.9(4) Primary responsibilities for documenting the requirements shall be with the licensee, and evidence to support fulfillment of those requirements must be retained for a period of three years subsequent to submission of the report claiming the credit. (Refer to 193A—subrule 14.3(1) and Iowa Code section 542.10(1)(a), which provides for permanent revocation based on fraud or deceit in procuring a license.) Satisfaction of the requirements, including retention of attendance records, certification of completion records, and written outlines, may be accomplished as follows:

- a. For courses taken for scholastic credit in accredited universities and colleges (state, community, or private) or high school districts, evidence of satisfactory completion of the course will be sufficient; for noncredit courses taken, a statement of the hours of attendance, signed by the instructor, must be obtained by the licensee.
- b. For correspondence and formal independent self-study courses, written evidence or a certificate of completion from the sponsor or course provider shall be obtained by the licensee.
- c. In all other instances, the licensee must maintain a record of the information as listed in subrule 10.8(3).

[ARC 9002B, IAB 8/11/10, effective 1/1/11; ARC 4243C, IAB 1/16/19, effective 2/20/19]

193A—10.10(542) Grounds for discipline. A licensee or an applicant is subject to discipline, including permanent revocation, if the licensee or applicant provides false information to the board in connection with an application to renew or reinstate a certificate or license. A licensee or an applicant is also subject to discipline if the licensee or applicant is unable to document the continuing professional education hours reported to the board in connection with an audit or other request for documentation. False information of this nature will subject the licensee or applicant to discipline whether the false information was supplied intentionally or with reckless disregard for the truth or accuracy of the number of hours claimed. Licensees and applicants are accordingly cautioned to supply the board with accurate continuing professional education information.

[ARC 9002B, IAB 8/11/10, effective 1/1/11]

193A—10.11(272C,542) Alternative continuing education cycles authorized.

10.11(1) Purpose. For a variety of reasons, some CPAs and LPAs may wish to satisfy continuing education requirements on a three-year cycle ending on a date other than December 31. By way of

illustration, some licensees may prefer to take courses on particular substantive topics that are not always offered at the same time each year. Some licensees may wish to schedule continuing education to comply with the differing requirements of multiple jurisdictions. This rule is intended to authorize a more flexible time frame within which continuing education may be satisfied. This rule does not alter any other requirement of this chapter.

10.11(2) *Alternative cycle.* A CPA or LPA may self-select December 31 or June 30 as the date by which continuing education requirements must be satisfied in order to be eligible to renew the license or certificate. Online renewal will require the renewal applicant to declare whether the continuing education was satisfied within the three-year period preceding December 31 or the three-year period preceding June 30. When declaring a June 30 date, licensees must be cautious to ensure the continuing education is fully completed on or prior to the date the renewal application is submitted. Licensees who renew with penalty during the 30-day grace period following June 30 must declare either December 31 or June 30 and may not extend the deadline beyond June 30.

10.11(3) *Declaration may vary by renewal cycle.* A CPA or LPA applying to renew a certificate or license may declare a continuing education deadline of December 31 in one renewal cycle and a continuing education deadline of June 30 in a subsequent renewal cycle, and vice versa. Licensees shall be expected to maintain continuing education records in a manner that complies with the self-selected declaration in any particular renewal cycle.

[ARC 0558C, IAB 1/9/13, effective 2/13/13; ARC 4243C, IAB 1/16/19, effective 2/20/19]

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CHAPTER 18
LICENSEES' DUTY TO REPORT
[Prior to 5/1/02, see 193A—Chapter 15]

193A—18.1(272C,542) Reporting acts or omissions committed by licensees.

18.1(1) Iowa Code section 272C.9(2) requires an individual or firm that is licensed by the board to report acts or omissions of others licensed by the board that demonstrate a lack of qualifications that are necessary to assure residents of this state a high standard of professional and occupational care. For the purposes of this rule, the failure to perform an engagement for a client in accordance with professional standards is a demonstration by a CPA or LPA or by a CPA or LPA firm that the CPA or LPA or the CPA or LPA firm may lack such qualifications. These professional standards are set forth in 193A—Chapter 13.

18.1(2) When a licensee observes a violation of any of the acts referenced in subrule 18.1(1), the licensee shall report the violation in writing to the board office, setting forth the name of the licensee alleged to have committed the violation and the rule(s) violated, together with a copy of all material that evidences the violation.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—18.2(272C,542) Reporting judgments and settlements alleging malpractice.

18.2(1) Iowa Code section 272C.9(3) requires a licensee to report to the board every adverse judgment in a professional malpractice action to which the licensee is a party and every settlement of a claim against the licensee. For the purposes of this rule, malpractice actions brought against a firm licensed by the board will be deemed to have been brought against both the firm and the firm's owners (e.g., partners, shareholders, or members) that performed the services that led to the malpractice action.

18.2(2) When a licensee is a party to an adverse judgment resulting from a professional malpractice action or is a party to a settlement of a claim resulting from an allegation of malpractice, the licensee shall file a report in writing forwarded to the board office, setting forth the name and address of the client, the date the claim was originally made, a brief description of the circumstances precipitating the claim and a copy of the judgment or settlement agreement resulting from the claim.

[ARC 7715B, IAB 4/22/09, effective 7/1/09; ARC 6123C, IAB 1/12/22, effective 2/16/22]

193A—18.3(272C,542) Timely reporting. The reports required by rules 193A—18.1(272C,542) and 193A—18.2(272C,542) shall be forwarded to the board within a reasonable period of time from the initial receipt of the information required to be reported. A period of less than 30 days will be considered to be a reasonable period of time.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—18.4(272C,542) Failure to make reports. Upon obtaining information that a licensee failed to file a report required by rules 193A—18.1(272C,542) and 193A—18.2(272C,542) within a reasonable period of time, the board shall initiate a disciplinary proceeding against the licensee who failed to make the required report.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

193A—18.5(272C,542) Professional resolution encouraged. While a licensee may report any act to the board that provides a ground for discipline under 193A—Chapter 14, the board anticipates that licensees will attempt to informally resolve those matters that do not pose a risk to the public if promptly resolved through professional courtesy and in an educational fashion.

[ARC 7715B, IAB 4/22/09, effective 7/1/09]

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CHAPTER 27
REGULATION OF ELECTRIC COOPERATIVES AND MUNICIPAL ELECTRIC UTILITIES
UNDER IOWA CODE CHAPTER 476

199—27.1(476) General information. Iowa Code section 476.2(1) provides that the Iowa utilities board shall have authority to establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content and filing of reports, documents and other papers provided for in Iowa Code chapter 476 or in the board's rules.

27.1(1) Application of rules. The rules shall apply to electric cooperatives and municipal electric utilities operating within the state of Iowa subject to Iowa Code sections 476.1A and 476.1B, and to the construction, operation and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the board that are in conflict with these rules.

27.1(2) Regulation of electric cooperatives. Iowa Code section 476.1A provides that electric cooperatives are not subject to the regulation of the board, except for regulatory action pertaining to the following:

- a. Assessment of fees for the support of the board and the office of consumer advocate pursuant to Iowa Code section 476.10.
- b. Safety and engineering standards for equipment, operations, and procedures.
- c. Assigned service areas.
- d. Pilot projects of the board.
- e. Assessment of fees for the support of the Iowa energy center and the center for global and regional environmental research. This paragraph is rescinded July 1, 2022, unless extended by statute.
- f. Filing of alternative energy purchase program plans with the board, and offering such programs to customers, pursuant to Iowa Code section 476.47.
- g. Disconnection of service and winter moratorium pursuant to Iowa Code sections 476.20(1) through 476.20(4).
- h. Discrimination against renewable energy pursuant to Iowa Code section 476.21.
- i. Civil penalties pursuant to Iowa Code section 476.51.
- j. Annual energy costs to be provided pursuant to Iowa Code section 476.56.
- k. Energy-efficient lighting pursuant to Iowa Code section 476.62.
- l. Customer contribution fund pursuant to Iowa Code section 476.66.
- m. Certification requirements for electric power generation and transmission pursuant to Iowa Code chapter 476A, to the extent applicable.
- n. Franchise requirements for electric transmission lines pursuant to Iowa Code chapter 478, to the extent applicable.

27.1(3) Regulation of municipal electric utilities. Iowa Code section 476.1B provides that municipal electric utilities are not subject to regulation by the board under Iowa Code chapter 476 unless otherwise specifically provided by statute, except for regulatory action pertaining to the following:

- a. Assessment of fees for the support of the board and the office of consumer advocate.
- b. Safety standards.
- c. Assigned areas of service as set forth in Iowa Code sections 476.22 through 476.26.
- d. Civil penalties pursuant to Iowa Code section 476.51.
- e. Disconnection of service in Iowa Code sections 476.20(1) through 476.20(4).
- f. Encouragement of alternative energy production facilities pursuant to Iowa Code sections 476.41 through 476.45.
- g. Annual energy costs to be provided pursuant to Iowa Code section 476.56.
- h. Energy-efficient lighting pursuant to Iowa Code section 476.62.
- i. Customer contribution fund pursuant to Iowa Code section 476.66.
- j. Assessment of fees for the support of the Iowa energy center and the center for global and regional environmental research. This paragraph is rescinded July 1, 2022, unless extended by statute.

k. Electric power agencies, as defined in Iowa Code chapter 28F and section 390.9, that include as a member a city or municipally owned utility that builds transmission facilities after July 1, 2001, are subject to applicable transmission reliability rules or standards adopted by the board for those facilities.

l. Filing alternative energy purchase program plans with the board, and offering such programs to customers pursuant to Iowa Code section 476.47.

m. Iowa Code chapters 476A and 478, to the extent applicable.

27.1(4) Definitions. The following words and terms, when used in these rules, shall have the meanings indicated below:

“*Board*” means the utilities board.

“*Capacity*” means the instantaneous rate at which energy can be delivered, received, or transferred, measured in kilowatts.

“*Complaint*,” as used in these rules, means a statement or question by any person, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or obligation of an electric cooperative or municipal electric utility.

“*Customer*” means any person, firm, association, or corporation; any agency of the federal, state or local government; or any legal entity responsible by law for payment for the electric service or heat from the electric cooperative or municipal electric utility.

“*Delinquent*” or “*delinquency*” means an account for which a service bill or service payment agreement bill has not been paid in full on or before the last day for timely payment.

“*Distribution line*” means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Electric plant*” includes all real estate, fixtures and property owned, controlled, operated or managed in connection with or to facilitate production, generation, transmission, or distribution, in providing electric service or heat by an electric utility.

“*Electric service*” means furnishing electricity to the public for compensation for use as heat, light, power, or energy.

“*Energy*” means electric energy measured in kilowatt hours.

“*Engineering standards*” means standards adopted by the American National Standards Institute (ANSI), or the Institute of Electrical and Electronics Engineers (IEEE), Rural Utilities Service (RUS), or similar type of engineering organizations or engineering standards adopted by the board.

“*Major event*” means when an event results in extensive physical damage to transmission or distribution facilities within an electric cooperative or municipal electric utility’s operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area, or
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area, or
3. Ten percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or
4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours, or
5. A regional transmission organization or independent system operator declares an energy emergency alert that the organization can no longer provide expected energy requirements or has lower than required reserves, implements procedures up to shedding load, declares a maximum generation warning, declares conservative operations, or calls a maximum generation alert event in compliance with North American Electric Reliability Corporation requirements.

“*Meter*” means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

“*Power*” means electric power measured in kilowatts.

“*Safety standard*” means a set of policies, procedures, or specifications formally adopted by a governmental agency, an accrediting agency, or standards developing organization, the purpose of which is to ensure the safe generation, transmission, or distribution of electric energy to customers

or electric utilities, including electric cooperatives and municipal electric utilities. “Safety standard” includes, but is not limited to, the safety standards in rule 199—27.8(476), the electrical safety code in 199—Chapter 25, the National Electrical Safety Code, the American National Standards Institute, and the Institute of Electrical and Electronics Engineers.

“*Secondary line*” means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Service limitation*” means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter device on the customer’s meter.

“*Tariff*” means, for the purposes of this chapter, the service classifications, rules, procedures, and policies filed with and approved by the board.

“*Timely payment*” means a payment on a customer’s account made on or before the date shown on a current bill for service, or on a form which records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

“*Transmission line*” means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

27.1(5) Abbreviations. The following abbreviations may be used in this chapter where appropriate:

ANSI—American National Standards Institute, www.ansi.org.

IEEE—Institute of Electrical and Electronics Engineers, www.ieee.org.

NESC—National Electrical Safety Code.

NFPA—National Fire Protection Association, www.nfpa.org.

RUS—United States Department of Agriculture Rural Utilities Service, www.rd.usda.gov/about-rd/agencies/rural-utilities-service.

27.1(6) Electric cooperative service rules tariffs. Electric cooperatives subject to the board’s jurisdiction under Iowa Code section 476.1A shall maintain tariffs which are consistent with the rules in this chapter and shall file those tariffs with the board for approval.

a. Electric cooperatives shall file those portions of their tariff or tariff pages regarding matters over which the board has jurisdiction with strikethroughs for the language deleted and underlining of the language that is added.

b. If an electric cooperative chooses to file a revised tariff with provisions which are not subject to board jurisdiction, the electric cooperative shall identify which provisions are jurisdictional either in the cover letter or elsewhere in the filing. The provisions that are not jurisdictional need not include strikeouts of deleted language and underlining of new language.

c. An electric cooperative association may file a model tariff for board approval that may be adopted by an electric cooperative with any revisions the electric cooperative proposes to the model tariff.

d. An electric cooperative may file a revised tariff adopting the model tariff approved by the board. The electric cooperative shall include the docket number and date of board approval with the revised tariff.

e. Electric cooperatives shall make tariffs filed with the board available to all customers.

27.1(7) Municipal electric utilities service rules. Municipal electric utilities shall not be required to file tariffs with the board implementing the provisions in this chapter; however, municipal utilities shall adopt service rules or other legally enforceable provisions that are consistent with the provisions in this chapter.

a. A municipal electric utility shall make rules or other legally enforceable provisions implementing the requirements of this chapter available to all customers.

b. A municipal electric utility may adopt a model ordinance prepared by a municipal utility association that has been approved by the board.

c. A municipal electric utility shall provide a copy of its ordinance, or other legally enforceable document, that implements the rules in this chapter within 15 days of a request from the board.

27.1(8) Notice of rate increases. Electric cooperatives and municipal electric utilities shall provide notice of rate increases to all affected customers at least 30 days in advance of the rate increase taking effect. The notice may be sent by U.S. mail or electronically.

[ARC 5865C, IAB 8/25/21, effective 9/29/21; ARC 6124C, IAB 1/12/22, effective 2/16/22]

199—27.2(476) Assigned area of service and maps.

27.2(1) Service areas. Service areas are defined by the boundaries on service area maps. Electronic maps are available for viewing during regular business hours at the board's offices. Maps are also available for viewing on the board's website. These service area maps are the official electric service territory maps as required pursuant to Iowa Code section 476.24 and shall be presumed to be accurate; however, the presumption may be rebutted by filing a request with the board.

27.2(2) Modification of service area and answers.

a. An exclusive service area is subject to modification through a contested case proceeding which may be commenced by filing a petition for modification of service area with the board. The board may commence a service area modification proceeding on its own motion. The board may grant a modification if the modification promotes the public interest. In determining whether the modification is in the public interest, the board will consider the factors described in Iowa Code section 476.25(1) and any other relevant factors.

b. Any electric cooperative or municipal electric utility may file a petition for modification of service area, which shall contain: (1) a legal description of the service area desired, (2) a designation of the utilities involved in each boundary section, (3) a justification for the proposed service area modification, and (4) in addition to the PDF (Portable Document Format) map required in 199—subrule 14.8(1), an electronic file of the proposed service area boundaries, in a format designated by the board, as described on the electronic filing system (EFS) homepage under EFS filing standards. The justification shall include a detailed statement of why the proposed modification is in the public interest. A map showing the affected areas which complies with paragraph 27.2(4)“a” shall be attached to the petition as an exhibit.

c. Filing of the petition with the board, and service to other parties, shall be in accordance with 199—Chapter 14.

d. An answer to a petition for a service area modification shall comply with 199—subrule 7.9(2).

e. Electric cooperatives and municipal electric utilities may agree with other electric utilities to service territory modifications by contract pursuant to Iowa Code section 476.25(2). Contracts to be enforceable require board approval. The board shall approve a contract if the board finds that the contract will eliminate or avoid unnecessary duplication of facilities, will provide adequate electric service to all areas and customers affected, will promote the efficient and economical use and development of the electric systems of the contracting utilities, and is in the public interest.

27.2(3) Certificate of authority. Any electric cooperative or municipal electric utility requesting a service territory modification pursuant to subrule 27.2(2) which would result in service to a customer by a public utility other than the public utility currently serving the customer shall also petition the board for a certificate of authority under Iowa Code section 476.23. Unless voluntarily agreed otherwise, the electric cooperative or municipal electric utility shall pay the party currently serving the customer a reasonable price for the facilities serving the customer.

27.2(4) Maps.

a. Each electric cooperative and municipal electric utility shall maintain a current map or set of maps showing the physical location of electric lines, stations, and electric transmission facilities for its service areas. The maps shall include the exact location of the following:

- (1) Generating stations, with capacity designation.
- (2) Purchased power supply points, with maximum contracted capacity designation.
- (3) Purchased power metering points if located at other than power delivery points.

(4) Transmission lines, with size and type of conductor designation and operating voltage designation.

(5) Transmission-to-transmission voltage transformation substations, with transformer voltage and capacity designation.

(6) Transmission-to-distribution voltage transformation substations, with transformer voltage and capacity designation.

(7) Distribution lines, with size and type of conductor designation, phase designation and voltage designation.

(8) All points at which transmission, distribution or secondary lines of the utility cross Iowa state boundaries.

(9) All current information required in Iowa Code section 476.24(1).

(10) All county boundaries and county names.

(11) Natural and artificial lakes which cover more than 50 acres and all rivers.

(12) Any additional information required by the board.

b. All maps, except those deemed confidential by the board, shall be available for examination at the designated offices of the electric cooperative or municipal electric utility during regular office hours. The maps shall be drawn with clean, uniform lines to a scale of one inch per mile. A large scale shall be used where it is necessary to clarify areas where there is a heavy concentration of facilities. All cartographic details shall be clean cut, and the background shall contain little or no coloration or shading. [ARC 5865C, IAB 8/25/21, effective 9/29/21]

199—27.3(476) Customer relations.

27.3(1) Notification to customers by bill insert.

a. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: “If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7300, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email to customer@iub.iowa.gov.”

b. The bill insert or notice shall be provided to customers at least annually. Any utility which does not use the standard statement described in this subrule shall file its proposed statement for board approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information required in paragraph 27.3(1) “*a.*”

27.3(2) Payment agreements.

a. Availability of a first payment agreement. When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the electric cooperative or municipal electric utility for residential utility service and is not in default of a payment agreement with the electric cooperative or municipal electric utility, an electric cooperative or municipal electric utility shall offer the customer an opportunity to enter into a reasonable payment agreement. The offer of a payment agreement shall be made prior to disconnection. The electric cooperative or municipal electric utility is not required to offer a customer who has been disconnected from service a payment agreement consistent with these rules, unless the utility did not comply with these rules prior to disconnection.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The electric cooperative or municipal electric utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. Terms of payment agreements.

(1) First payment agreement. The electric cooperative or municipal electric utility shall offer the following conditions to customers who have received a disconnection notice and are not in default of a payment agreement:

1. For customers who received a disconnection notice in conformance with these rules, the electric cooperative or municipal electric utility shall offer an agreement with at least 12 even monthly payments. The utility shall inform customers they may pay off the delinquency early without incurring any prepayment penalties. A customer shall not be charged interest, or a late payment charge, on a payment agreement where the customer is making payments consistent with the terms of the payment agreement, and the customer will not be required to pay a portion of the delinquent amount to enter into a payment agreement.

2. The agreement shall also include a provision for payment of the current amount owed by the customer.

3. The electric cooperative or municipal electric utility may also require the customer to enter into a budget billing plan to pay the current bill.

4. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

5. The electric cooperative or municipal electric utility may offer the customer the option of making the agreement over the telephone or through electronic transmission.

6. When the customer makes the agreement over the telephone or through electronic transmission, the electric cooperative or municipal electric utility shall provide to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement.

7. The document will be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage paid. If delivery is by other than U.S. mail, the document shall be considered provided to the customer when delivered to the last-known address of the person responsible for payment for the service.

8. The document shall state that unless the customer notifies the utility otherwise within ten days from the date the document is provided, it will be deemed that the customer accepts the terms as stated in the written document. The document stating the terms and conditions of the agreement shall include the address and a toll-free or collect telephone number where a qualified representative can be reached.

9. Once the first payment required by the agreement is made by the customer or on behalf of the customer, the oral or electronic agreement is deemed accepted by the customer.

10. Each customer entering into a first payment agreement shall be granted at least one late payment that is four days or less beyond the due date for payment, and the first payment agreement shall remain in effect.

11. The initial payment is due on the due date for the next regular bill.

(2) Second payment agreement. The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement.

1. The second payment agreement shall be for a term at least as long as the term of the first payment agreement.

2. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up front as a condition of entering into the second payment agreement.

3. The electric cooperative or municipal electric utility may also require the customer to enter into a budget billing plan to pay the current bill.

(3) Additional payment agreements. The electric cooperative or municipal electric utility may offer additional payment agreements to the customer.

- d. *Refusal by electric cooperative or municipal electric utility.* A customer may offer the electric cooperative or municipal electric utility a proposed payment agreement. If the electric cooperative or municipal electric utility and the customer do not reach an agreement, the electric cooperative or municipal electric utility may refuse the offer orally, but the electric cooperative or municipal electric

utility must provide a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered provided to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

e. Customer request for assistance. A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after the written refusal is provided. During the review of this request, the utility shall not disconnect the service.

27.3(3) Bill payment terms. The bill shall be considered provided to the customer when deposited in the U.S. mail with postage prepaid or sent by electronic mail to the customer, if agreed to by the customer. If delivery is by other than U.S. mail, the bill shall be considered provided when delivered to the last-known address of the party responsible for payment, or to the last-known electronic mail address of the customer. There shall not be less than 20 days between the providing of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals may not be considered delinquent less than 5 days from the date the bill is provided, and a late payment charge may not be assessed if payment is received within 20 days of the date the bill is provided.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month shall be changeable for cause; such as, but not limited to, 15 days from the approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

d. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used. Complete forgiveness prohibits any effect upon the credit rating of the customer or collection of late payment charge.

27.3(4) Customer records. The electric cooperative or municipal electric utility shall retain records not less than five years. Records for each customer shall show where applicable:

- a.* kWh meter reading.
- b.* kWh consumption.
- c.* kW meter reading.
- d.* kW measured demand.
- e.* kW billing demand.
- f.* Total amount of bill.

27.3(5) Adjustment of bills for meter error. Electric cooperatives and municipal electric utilities shall establish meter testing standards and procedures for customers who have complaints about the accuracy of the customer's meter. The meter testing standards shall be made available to a customer upon request. [ARC 5865C, IAB 8/25/21, effective 9/29/21]

199—27.4(476) Disconnection of service.

27.4(1) *Disconnection procedures and notice.* Electric cooperatives and municipal electric utilities shall only disconnect service to customers in compliance with the following procedure and requirements:

a. Service may be disconnected without notice:

- (1) In the event of a condition on the customer's premises determined by the utility to be hazardous.
- (2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.
- (3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.
- (4) In the event of unauthorized use.

b. The electric cooperative or municipal electric utility shall give written notice of pending disconnection except as specified in paragraph 27.4(1) "*a.*" The notice shall set forth the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice shall be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered provided when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall not be less than 12 days after the notice is provided. The date for disconnection of service for customers on shorter billing intervals shall not be less than 24 hours after the notice is posted at the service premises.

c. One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

d. Service may be disconnected after proper notice:

- (1) For violation of or noncompliance with the utility's rules.
- (2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the board, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the board.
- (3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

e. Service may be disconnected after proper notice for nonpayment of a bill or deposit provided that the electric cooperative or municipal electric utility has complied with the following provisions:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities set out in subrule 27.4(2). Customers billed more frequently than monthly shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each electric cooperative or municipal electric utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) If the electric cooperative or municipal electric utility has adopted a service limitation policy, the following paragraph shall be appended to the end of the standard form of the summary of rights and responsibilities:

Service limitation: We have adopted a limitation of service policy for customers who otherwise could be disconnected. Contact our business office for more information or to learn if you qualify.

(4) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer's rights and responsibilities. Between November 1 and

April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and a copy of the rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the electric cooperative or municipal electric utility shall make a diligent attempt to contact the landlord of the rental unit, if known, to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected. The electric cooperative or municipal electric utility shall make a diligent attempt to inform the landlord at least 48 hours prior to disconnection of service to a tenant.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the electric cooperative or municipal electric utility to contain residential units affected by disconnection shall be posted at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

If the customer has received notice of disconnection and has a dispute concerning a bill for electric service, the electric cooperative or municipal electric utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. An electric cooperative or municipal electric utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the providing of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

f. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

g. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at a residence when the actual temperature or the 24-hour forecast of the National Weather Service for the residence's area is predicted to be 20 degrees Fahrenheit or colder. If the electric cooperative or municipal electric utility has properly posted a disconnect notice but is precluded from disconnecting service because of severe cold weather, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area rises above 20 degrees Fahrenheit and is forecasted to remain above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is otherwise entitled to postponement of disconnection.

h. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises.

(1) An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

(2) The electric cooperative or municipal electric utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

(3) Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that

residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection.

i. Winter energy assistance (November 1 through April 1). If the electric cooperative or municipal electric utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the electric cooperative or municipal electric utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the electric cooperative or municipal electric utility by the community action agency as eligible for either the low-income home energy assistance program or the weatherization assistance program.

j. Military service deployment. If the electric cooperative or municipal electric utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

k. Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The electric cooperative or municipal electric utility shall provide assistance by discussing patterns of electric usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

l. An electric cooperative or municipal electric utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

m. The electric cooperative or municipal electric utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. An electric cooperative or municipal electric utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

27.4(2) Notice of customer rights and responsibilities. The standard form of the summary of the rights and responsibilities to be provided to customers is set out below, and all electric cooperatives and municipal electric utilities providing electric service shall provide the notice with all disconnection notices. If an electric cooperative or municipal electric utility does not use the standard form as set out below, the electric cooperative or municipal electric utility shall submit to the board for approval an alternative notice. The standard customer rights and responsibilities notice is as follows:

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the electric cooperative or municipal electric utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

a. Contact the electric cooperative or municipal electric utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility shall offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your electric service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

3. How do I apply for low-income energy assistance? (Residential customers only)

a. Applications are taken at your local community action agency. If you are unsure where to apply, dial 2-1-1 or 1-800-244-7431, or visit humanrights.iowa.gov/dcaa. To prevent disconnection, you must contact the utility prior to disconnection of your service.

b. To avoid disconnection, you must apply for energy assistance or weatherization before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the electric cooperative or municipal electric utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your electric service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the electric cooperative's or municipal electric utility's office within five days of when your doctor or public health official notifies the utility of the health condition; otherwise, your electric service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your bill. You must tell the electric cooperative or municipal electric utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the electric cooperative or municipal electric utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute (see #9 below).

6. When can the electric cooperative or municipal electric utility shut off my electric service because I have not paid my bill?

a. Your electric cooperative or municipal electric utility can shut off service between the hours of 6 a.m. and 2 p.m. Monday through Friday.

b. The electric cooperative or municipal electric utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The electric cooperative or municipal electric utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The electric cooperative or municipal electric utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the electric cooperative or municipal electric utility cannot shut off your service from November 1 through April 1. However, you will still owe the electric cooperative or municipal electric utility for the service used during this time.

f. The electric cooperative or municipal electric utility will not shut off your service if you have notified the electric cooperative or municipal electric utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

g. If one of the heads of household is a service member deployed for military service, electric service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the electric cooperative or municipal electric utility must be informed of the deployment prior to disconnection. However, you will still owe the electric cooperative or municipal electric utility for service used during this time.

7. How will I be told the electric cooperative or municipal electric utility is going to shut off my service?

a. You must be given a written notice at least 12 days before the electric service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The electric cooperative or municipal electric utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the electric cooperative or municipal electric utility cannot reach you by telephone or in person, the electric cooperative or municipal electric utility will put a written notice on the door of or another conspicuous place at your residence to tell you that your electric service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The electric cooperative or municipal electric utility will turn your service back on if you pay the whole amount you owe.

b. If you make your payment during regular business hours, or by 7 p.m. for electric cooperatives or municipal electric utilities permitting such payment or other arrangements after regular business hours, the electric cooperative or municipal electric utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The electric cooperative or municipal electric utility may charge you a fee to turn your service back on. That fee may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my electric cooperative or municipal electric utility?

If the electric cooperative or municipal electric utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email at customer@iub.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid and may contact Iowa Legal Aid at 1-800-532-1275.

27.4(3) When disconnection is prohibited.

a. No disconnection may take place from November 1 through April 1 for a resident who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the electric cooperative or municipal electric utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

27.4(4) Servicing of utilization control equipment. Each electric cooperative or municipal electric utility shall service and maintain any equipment it uses on a customer's premises and shall correctly set and keep in proper adjustment any utility-owned thermostats, clocks, relays, time switches or other devices which control the customer's service in accordance with the provisions in the utility's schedules.

27.4(5) Customer complaints. Complaints concerning the practices, facilities or service of the electric cooperative or municipal electric utility shall be investigated promptly and thoroughly. The electric cooperative or municipal electric utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each electric cooperative and municipal electric utility shall develop a fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

c. The final step in a complaint review procedure, if the utility and customer are not able to agree on a resolution of the complaint, shall be a filing for board resolution of the issues if the board determines it has jurisdiction.

27.4(6) Limitation of service. The electric cooperative or municipal electric utility shall have the option of adopting a policy for service limitation at a customer's residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy shall be set out in the utility's tariff, or other legal document, and shall contain the following conditions:

a. A service limitation device shall not be activated without the customer's agreement.

b. A service limitation device shall not be activated unless the customer has defaulted on all payment agreements for which the customer qualifies under the board's rules and the customer has agreed to a subsequent payment agreement.

c. The service limiter shall provide for usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, the tariff or rules shall set out specific nondiscriminatory criteria for determining the usage levels. Electric-heating residential customers may have their service limited if otherwise eligible, but such customers shall have consumption limits set at a level that allows them to continue to heat their residences. For purposes of this rule, "electric heating" shall mean heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.

d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function must be capable of being reset manually by the customer, or the service limiter function must reset itself automatically within 15 minutes after the interruption. In addition, the service limiter function may also be capable of being reset remotely. If the option of resetting the meter remotely is available, the utility shall provide a 24-hour toll-free number for the customer to notify the electric cooperative or municipal electric utility that the limiter needs to be reset and the meter shall be reset immediately following notification by the customer. If the remote reset option is used, the meter must still be capable of being reset manually by the customer or the service limiter function must reset itself automatically within 15 minutes after the interruption.

e. There shall be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.

f. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the electric cooperative or municipal electric utility shall provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.

g. A provision that the service limiter function of the meter shall be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

h. A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice.

[ARC 5865C, IAB 8/25/21, effective 9/29/21]

199—27.5(476) Engineering practice.

27.5(1) Requirement for good engineering practice. The electric plant of the electric cooperative or municipal electric utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

27.5(2) Standards incorporated by reference. The electric cooperative shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board. The standards listed below are recommended for use by municipal electric utilities.

- a. Iowa Electrical Safety Code, as defined in 199—Chapter 25.
- b. National Electrical Code, ANSI/NFPA 70-2014.
- c. American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2006; and C57.13.3-2005.
- d. American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2011.
- e. Grounding of Industrial and Commercial Power Systems, IEEE 142-2007.
- f. IEEE Standard 1159-2009, IEEE Recommended Practice for Monitoring Electric Power Quality, or any successor standard.
- g. IEEE Standard 519-2014, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems, or its successor standard.
- h. At railroad crossings, rule 199—42.6(476), “Engineering standards for electric and communications lines.”
- i. Iowa Stray Voltage Guide, located at www.iowastrayvoltageguide.com, published July 2014. [ARC 5865C, IAB 8/25/21, effective 9/29/21]

199—27.6(476) Metering. Each electric cooperative and municipal electric utility shall have a meter inspection and testing program that meets industry standards similar to ANSI C12.1-2014. [ARC 5865C, IAB 8/25/21, effective 9/29/21]

199—27.7(476) Standards of quality of service.

27.7(1) *Applicability.* The quality of service standards in this rule apply to electric cooperatives. Subrules 27.7(2), 27.7(3), and 27.7(10) apply to municipal electric utilities.

27.7(2) *Standard frequency.* The standard frequency for alternating current distribution systems shall be 60 cycles per second. The frequency shall be maintained within limits which will permit the satisfactory operation of customer’s clocks connected to the system.

27.7(3) *Voltage limits retail.* Each electric cooperative and municipal electric utility supplying electric service to ultimate customers shall provide service voltages in conformance with the standard in paragraph 27.5(2)“d.”

27.7(4) *Voltage balance.* Where three-phase service is provided the electric cooperative shall exercise reasonable care to assure that the phase voltages are in balance. In no case shall the ratio of maximum voltage deviation from average to average voltage exceed .02.

27.7(5) *Exceptions to voltage requirements.* Voltage outside the limits specified will not be considered a violation when the variations:

- a. Arise from the action of the elements.
- b. Are infrequent fluctuations not exceeding five minutes’ duration.
- c. Arise from service interruptions.
- d. Arise from temporary separation of parts of the system from the main system.
- e. Are from causes beyond the control of the electric cooperative.
- f. Do not exceed 10 percent above or below the standard nominal voltage, and service is at a distribution line or transmission line voltage with the retail customer providing voltage regulators.

27.7(6) *Voltage surveys and records.* Voltage measurements shall be made at the customer’s entrance terminals. For single-phase service, the measurement shall be made between the grounded conductor and the ungrounded conductors. For three-phase service, the measurement shall be made between the phase wires.

27.7(7) *Voltage measurements.* Each electric cooperative shall make a sufficient number of voltage measurements in order to determine if voltages are in compliance with the requirements as stated in subrules 27.7(3), 27.7(4), and 27.7(5). All records obtained under this subrule shall be retained by the electric cooperative for at least two years and shall be available for inspection by the board’s representatives. Notations on each chart shall indicate the following:

- a. The location where the voltage was taken.
- b. The time and date of the test.
- c. The results of the comparison with a working standard indicating voltmeter.

27.7(8) Equipment for voltage measurements.

a. Secondary standard indicating voltmeter. Each electric cooperative shall have available at least one indicating voltmeter maintained with error no greater than 0.25 percent of full scale.

b. Working standard indicating voltmeters. Each electric cooperative shall have at least two indicating voltmeters maintained so as to have as-left errors of no greater than 1 percent of full scale.

c. Recording voltmeters. Each electric cooperative must have readily available at least two portable recording voltmeters with a rated accuracy of 1 percent of full scale.

27.7(9) Handling of standards and instruments. Extreme care must be exercised in the handling of standards and instruments to assure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

27.7(10) Planned interruptions. Planned interruptions by electric cooperatives and municipal electric utilities shall be made at a time that will not cause unreasonable inconvenience to customers, and interruptions planned for longer than one hour shall be preceded by adequate notice to those who will be affected, when advance notice can reasonably be provided.

27.7(11) Power quality monitoring. Each electric cooperative shall investigate power quality complaints from its customers and determine if the cause of the problem is on the utility's systems. In addressing these problems, each electric cooperative or municipal electric utility shall implement to the extent reasonably practical the practices outlined in the standard given in paragraph 27.5(2) "f."

27.7(12) Harmonics. A harmonic is a sinusoidal component of the 60 cycles per second fundamental wave having a frequency that is an integral multiple of the fundamental frequency. When excessive harmonics problems arise, each electric cooperative shall investigate and take actions to rectify the problem. In addressing harmonics problems, the electric cooperative and the customer shall implement to the extent practicable and in conformance with prudent operation the practices outlined in the standard in paragraph 27.5(2) "g."

[ARC 5865C, IAB 8/25/21, effective 9/29/21]

199—27.8(476) Safety.

27.8(1) Iowa electrical safety code compliance. Each electric cooperative and municipal electric utility shall be subject to 199—Chapter 25 under this subrule.

27.8(2) Interconnection compliance. Each electric cooperative and municipal electric utility shall be subject to rule 199—15.10(476) under this subrule.

27.8(3) Protective measures. Each electric cooperative and municipal electric utility shall exercise reasonable care to reduce those hazards inherent in connection with its electric service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations.

27.8(4) Accident investigation and prevention. Electric cooperatives and municipal electric utilities shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

27.8(5) Reportable accidents. Electric cooperatives and municipal electric utilities shall maintain a summary of all reportable accidents, as defined in rule 199—25.5(476,478), arising from operations.

27.8(6) Grounding of secondary distribution system. Unless otherwise specified by the board, each electric cooperative and municipal electric utility shall comply with, and shall encourage customers to comply with, the applicable provisions of the acceptable standards listed in subrule 27.5(2) for the grounding of secondary circuits and equipment.

a. Ground connections should be tested for resistance at the time of installation. Each electric cooperative and municipal electric utility shall keep a record of all ground resistance measurements.

b. Each electric cooperative and municipal electric utility shall establish a program of inspection so that all artificial grounds installed shall be inspected within reasonable periods of time.

[ARC 5865C, IAB 8/25/21, effective 9/29/21]

199—27.9(476) Customer contribution fund.

27.9(1) *Applicability and purpose.* This rule applies to each electric cooperative and municipal electric utility, as defined in Iowa Code sections 476.1A and 476.1B. Pursuant to Iowa Code section 476.66, each electric cooperative or municipal electric utility shall maintain a program plan to assist the electric cooperative's or municipal electric utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

27.9(2) *Notification.* Each electric cooperative or municipal electric utility shall notify all customers of the customer contribution fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the electric cooperative's or municipal electric utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers, or provided by electronic means to those customers who have consented to receiving electronic notices. The other required notice may be published in a local newspaper(s) of general circulation within the service territory of the electric cooperative or municipal electric utility. A utility serving fewer than 6,000 customers may publish its semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum, the notice shall include:

- a. A description of the availability and the purpose of the fund.
- b. A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

27.9(3) *Methods of contribution.* The electric cooperative or municipal electric utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. A pledge by a customer or other party shall not be construed to be a binding contract between the electric cooperative or municipal electric utility and the pledger. The pledge amount shall not be subject to delayed payment charges by the electric cooperative or municipal electric utility. Each electric cooperative or municipal electric utility may allow persons or organizations to contribute matching funds.

27.9(4) *Annual report.* On or before September 30 of each year, each electric cooperative or municipal electric utility shall file with the board a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the board and shall contain an accounting of the total revenues collected and all distributions of the fund. The electric cooperative or municipal electric utility shall report all utility expenses directly related to the customer contribution fund.

[ARC 5865C, IAB 8/25/21, effective 9/29/21]

199—27.10(476,478) Service reliability requirements for electric utilities.

27.10(1) *Applicability.* This rule is applicable to electric cooperatives and associations operating within the state of Iowa subject to Iowa Code section 476.1A. Paragraph 27.10(3) "g" is applicable to both electric cooperatives and municipal electric utilities.

27.10(2) *Purpose and scope.* Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of this rule is to establish standards of reliability of the transmission and distribution systems and facilities that are under the board's jurisdiction.

27.10(3) *General obligations.*

a. Each electric cooperative shall make reasonable efforts to avoid and prevent interruptions of service. However, when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

b. The electric cooperative's electrical transmission and distribution facilities shall be designed, constructed, maintained, and electrically reinforced and supplemented as required to reliably perform the power delivery burden placed upon them in the storm and traffic hazard environment in which they are located.

c. Each electric cooperative shall carry on an effective preventive maintenance program and shall be capable of emergency repair work on a scale which its storm and traffic damage record indicates as appropriate to its scope of operations and to the physical condition of its transmission and distribution facilities.

d. Each electric cooperative shall keep records of interruptions of service on its primary distribution system and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions.

e. Each electric cooperative shall make reasonable efforts to reduce the risk of future interruptions by taking into account the age, condition, design, and performance of transmission and distribution facilities and providing adequate investment in the maintenance, repair, replacement, and upgrade of facilities and equipment.

f. Any electric cooperative unable to comply with applicable provisions of this rule may file a waiver request pursuant to rule 199—1.3(17A,474,476).

g. Each electric cooperative and municipal electric utility shall adopt and have approved by its board of directors or governing authority a reliability plan. The reliability plan shall be updated not less than annually. A copy of the annual report shall be filed with the board for informational purposes.

[ARC 5865C, IAB 8/25/21, effective 9/29/21]

199—27.11(476,478) Notification of outages.

27.11(1) Notification. The notification requirements in subrules 27.11(1) and 27.11(2) are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the safety and welfare of individual Iowa citizens. Each electric cooperative and municipal electric utility shall notify the board when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

a. Loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same electric cooperative or municipal electric utility. An electric cooperative or municipal electric utility may use loss of service within the utility's service territory to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

b. A major event as defined in subrule 27.1(4), except for notifications of emergency alerts from regional transmission organizations or independent system operators; or

c. Any other outage considered significant by the electric cooperative or municipal electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the electric cooperative or municipal electric utility at the time of the notification.

27.11(2) Information required.

a. Notification shall be provided regarding outages that meet the requirements of subrule 27.11(1) by notifying the board duty officer by email at dutyofficer@iub.iowa.gov or, in appropriate circumstances, by telephone at (515)745-2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

- (1) The general nature or cause of the outage;
- (2) The area affected;
- (3) The approximate number of customers that have experienced a loss of electric service as a result of the outage;

- (4) The time when service is estimated to be restored; and

- (5) The name of the electric cooperative or municipal electric utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the outage. The notice should be supplemented as more complete or accurate information is available.

b. The electric cooperative or municipal electric utility shall provide to the board updates of the estimated time when service will be restored to all customers able to receive service or of significant changed circumstances, unless service is restored within one hour of the time initially estimated.

c. The electric cooperative or municipal electric utility shall notify the board once service is fully restored to all customers after an outage meeting the requirements of subrule 27.11(1).

[ARC 5865C, IAB 8/25/21, effective 9/29/21]

199—27.12(476) Electric vehicle charging service. Electric cooperatives and municipal electric utilities shall comply with the requirements in rule 199—20.20(476) with regard to providing service to electric vehicle charging stations.

[ARC 5865C, IAB 8/25/21, effective 9/29/21]

199—27.13(476) Exterior flood lighting.

27.13(1) *Newly installed lighting.* All newly installed exterior flood lighting owned by an electric cooperative or municipal electric utility shall be solid-state lighting or lighting with equivalent or better energy efficiency.

27.13(2) *In-service lighting replacement schedule.* In-service lighting shall be replaced with solid-state lighting or lighting with equivalent or better energy efficiency when worn out due to ballast, lamp, or fixture failure or for any other reason, such as vandalism or storm damage. Electric cooperatives and municipal electric utilities shall file with the board, as part of the utility's annual report required in 199—Chapter 23, a report stating the progress in converting to higher pressure sodium lighting or lighting with equivalent or higher energy efficiency. The information shall be provided as part of board 24/7 requirements.

27.13(3) *Efficacy standards.* Lighting other than solid-state has equivalent or better efficacy if one or more of the following can be established:

- a.* For fixtures, the mean lumens-per-watt lamp rating is greater than 100; or
- b.* The new lighting uses no more energy per installation than comparable, suitably sized solid-state; or
- c.* The new lighting luminaries have a mean efficacy rating equal to or greater than 100 lumens per watt according to a Department of Energy (DOE) Lighting Facts label, testing under the DOE Commercially Available LED Product Evaluation and Reporting Program (CALiPER), Design Lights Consortium (DLC) or any other testing agency that follows Illuminating Engineering Society of North America LM-79-08 test procedures.

[ARC 5865C, IAB 8/25/21, effective 9/29/21]

These rules are intended to implement Iowa Code sections 476.1A, 476.1B and 476.2.

[Filed ARC 5865C (Notice ARC 5281C, IAB 11/18/20), IAB 8/25/21, effective 9/29/21]

[Filed ARC 6124C (Notice ARC 6013C, IAB 11/3/21), IAB 1/12/22, effective 2/16/22]

ECONOMIC DEVELOPMENT AUTHORITY[261]

[Created by 1986 Iowa Acts, chapter 1245]

[Prior to 1/14/87, see Iowa Development Commission[520] and Planning and Programming[630]]

[Prior to 9/7/11, see Economic Development, Iowa Department of[261];
renamed Economic Development Authority by 2011 Iowa Acts, House File 590]

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261—15.1(89GA,HF871) Purpose. The authority is directed to adopt rules to establish criteria for the distribution of funds appropriated in 2021 Iowa Acts, House File 871, section 3, subsection 11, to the STEM BEST program.

[ARC 6136C, IAB 1/12/22, effective 2/16/22]

261—15.2(89GA,HF871) Definitions. As used in this chapter, unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Council*” means the Iowa governor’s STEM advisory council operated pursuant to Executive Order 74 dated July 26, 2011, and Executive Order 81 dated May 15, 2013.

“*Program administrator*” means the science, technology, engineering, and mathematics collaborative initiative established at the university of northern Iowa pursuant to Iowa Code section 268.7.

“*STEM BEST program*” or “*program*” means the grant program overseen by the council and program administrator to support curriculum development by K-12 schools and industry professionals to prepare students for careers in science, technology, engineering, or mathematics (STEM) or a related field.

[ARC 6136C, IAB 1/12/22, effective 2/16/22]

261—15.3(89GA,HF871) Eligible uses of funds. Funds appropriated to the authority for the STEM BEST program shall be transferred to the program administrator to fund grant awards. Awards shall be made in accordance with program guidance established by the council and program administrator. The program guidance is published at www.iowastem.org. Funds may also be used for program recruitment and applicant support.

[ARC 6136C, IAB 1/12/22, effective 2/16/22]

These rules are intended to implement 2021 Iowa Acts, House File 871.

[Filed ARC 6136C (Notice ARC 5983C, IAB 10/20/21), IAB 1/12/22, effective 2/16/22]

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CHAPTER 17

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Rescinded IAB 7/4/07, effective 6/15/07

CHAPTER 18

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Transferred to 345—Ch 13, IAB 7/17/96, effective 7/1/96, pursuant to 1996 Iowa Acts, Senate File
2409

CHAPTER 19

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Transferred to 345—Ch 14, IAB 7/17/96, effective 7/1/96, pursuant to 1996 Iowa Acts, Senate File
2409.

CHAPTER 36
DOWNTOWN LOAN GUARANTEE PROGRAM

261—36.1(15) Purpose. Pursuant to Iowa Code section 15.431, the authority, in partnership with the Iowa finance authority, shall establish and administer a downtown loan guarantee program. The purpose of the program is to encourage Iowa downtown businesses and banks to reinvest and reopen following the COVID-19 pandemic.

[ARC 6134C, IAB 1/12/22, effective 12/17/21]

261—36.2(15) Definitions.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Authority’s website*” means the information and related content found at www.iowaeda.com and may include integrated content at affiliate sites.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Borrower*” means a business that is approved for a loan by a lender and that has applied for assistance under the program.

“*Director*” means the director of the authority.

“*Iowa finance authority*” means the public instrumentality and agency of the state created by Iowa Code section 16.1A.

“*Lender*” means a federally insured financial lending institution that issued a loan to a borrower.

“*Program*” means the downtown loan guarantee program established pursuant to this chapter.

[ARC 6134C, IAB 1/12/22, effective 12/17/21]

261—36.3(15) Eligibility. To be eligible for approval of a loan guarantee, a borrower must demonstrate that all of the following conditions are met:

36.3(1) The loan finances an eligible downtown resource center community catalyst building remediation grant project or main street Iowa challenge grant project within a designated district. A borrower does not need to receive a grant to be eligible for a loan guarantee under the program, but a borrower and proposed project must meet all eligibility criteria for either the community catalyst building remediation grant or main street Iowa challenge grant.

36.3(2) The loan finances a rehabilitation project, or finances acquisition or refinancing costs associated with the project.

36.3(3) At least 25 percent of the project costs are used for construction on the project or renovation.

36.3(4) The project includes a housing component.

36.3(5) The loan is used for construction of the project, permanent financing of the project, or both.

36.3(6) A federally insured financial lending institution issued the loan.

36.3(7) The loan does not reimburse the borrower for working capital, operations, or similar expenses.

36.3(8) The project meets downtown resource center and main street Iowa design review criteria.

[ARC 6134C, IAB 1/12/22, effective 12/17/21]

261—36.4(15) Application submittal and review process.

36.4(1) The authority will develop a standardized application process and make information on applying available on the authority’s website. To apply for assistance under the program, the borrower and lender shall submit an application to the authority in the manner prescribed by the authority. Applications will be accepted and processed by authority staff on a continuing basis, or the authority may establish application periods as announced on the authority’s website.

36.4(2) Each application shall include, at a minimum, the following: name(s) and address(es) of the borrower and participating lender, amount of loan, amount of loan guarantee requested, and certification of compliance with state law and lending practices.

36.4(3) The authority may refuse to accept incomplete applications.

36.4(4) The authority may refuse to accept applications because of insufficient funds.

36.4(5) Authority staff, in conjunction with Iowa finance authority staff, will review applications and make a recommendation as to whether an application should be approved and the guarantee percentage. The director may approve, deny, or defer an application.

36.4(6) The authority reserves the right to deny a loan guarantee for unreasonable bank loan fees or interest rates.

[ARC 6134C, IAB 1/12/22, effective 12/17/21]

261—36.5(15) Loan guarantee limitations.

36.5(1) For a loan amount less than or equal to \$500,000, the authority may guarantee up to 50 percent of the loan amount. For a loan amount greater than \$500,000, the authority may provide a maximum loan guarantee of up to \$250,000.

36.5(2) A project loan must be secured by a mortgage against the project property.

36.5(3) The authority may guarantee loans for up to five years. The authority may extend the loan guarantee for an additional five years if an underwriting review finds that an extension would be beneficial. Extensions are subject to approval by the director.

36.5(4) The loan must not be insured or guaranteed by another local, state, or federal guarantee program.

36.5(5) The loan guarantee is not transferable if the loan or the project is sold or transferred.

36.5(6) In the event of a loss due to default, the loan guarantee proportionally pays the guarantee percentage of the loss to the lender as established in the agreement executed pursuant to rule 261—36.7(15).

[ARC 6134C, IAB 1/12/22, effective 12/17/21]

261—36.6(15) Annual fee. The lender shall pay an annual loan guarantee fee not to exceed 2 percent of the loan amount for the duration of the loan guarantee. The fee applicable to each approved loan guarantee will be established by the program agreement executed pursuant to rule 261—36.7(15).

[ARC 6134C, IAB 1/12/22, effective 12/17/21]

261—36.7(15) Agreement. Upon approval of an award, authority staff shall prepare an agreement between the authority, the lender, and the borrower. The agreement, at a minimum, shall include the conditions of the award, including the applicable annual fee to be paid by the lender pursuant to rule 261—36.6(15), the responsibilities of each party, and the potential actions in instances of noncompliance.

[ARC 6134C, IAB 1/12/22, effective 12/17/21]

261—36.8(15) Reporting. The borrower and lender shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly, or the governor's office.

[ARC 6134C, IAB 1/12/22, effective 12/17/21]

These rules are intended to implement Iowa Code section 15.431.

[Filed Emergency After Notice ARC 6134C (Notice ARC 5984C, IAB 10/20/21), IAB 1/12/22,
effective 12/17/21]

EDUCATIONAL EXAMINERS BOARD[282]

[Prior to 6/15/88, see Professional Teaching Practices Commission[640]]
[Prior to 5/16/90, see Professional Teaching Practices Commission[287]]

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CHAPTER 11
COMPLAINTS, INVESTIGATIONS,
CONTESTED CASE HEARINGS

[Prior to 6/15/88, see Professional Teaching Practices Commission[640] Ch 2]

[Prior to 5/16/90, see Professional Teaching Practices Commission[287] Ch 2]

282—11.1(17A,272) Scope and applicability. This chapter applies to contested case proceedings conducted by the board of educational examiners.

282—11.2(17A) Definitions. Except where otherwise specifically defined by law:

“*Board*” means the board of educational examiners.

“*Complainant*” means any qualified party who files a complaint with the board.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“*Party*” means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*Presiding officer*” means an administrative law judge from the Iowa department of inspections and appeals or the full board or a three-member panel of the board.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the full board did not preside.

“*Respondent*” means any individual who is charged in a complaint with violating the criteria of professional practices or the criteria of competent performance.

[ARC 0026C, IAB 3/7/12, effective 4/11/12]

282—11.3(17A,272) Jurisdictional requirements.

11.3(1) The case must relate to alleged violation of the criteria of professional practices or the criteria of competent performance.

11.3(2) The magnitude of the alleged violation must be adequate to warrant a hearing by the board.

11.3(3) There must be sufficient evidence to support the complaint.

11.3(4) The complaint must be filed by a person who has personal knowledge of an alleged violation and must include a concise statement of facts which clearly and specifically apprises the respondent of the details of the allegation(s).

11.3(5) The complaint must be filed within three years of the occurrence of the conduct upon which it is based or discovery of the conduct by the complainant unless good cause can be shown for extension of this limitation.

11.3(6) The jurisdictional requirements must be met on the face of the complaint before the board may order an investigation of the allegation(s) of the complaint.

11.3(7) As an additional factor, it should appear that a reasonable effort has been made to resolve the problem on the local level. However, the absence of such an effort shall not preclude investigation by the board.

282—11.4(17A,272) Complaint.

11.4(1) Who may initiate. The following entities may initiate a complaint:

- a. Licensed practitioners.
- b. Recognized educational entities or local or state professional organizations.
- c. Local boards of education.
- d. Parents or guardians of students involved in the alleged complaint.
- e. The executive director of the board of educational examiners if the following circumstances have been met:

- (1) The executive director receives information that a practitioner:

1. Has been convicted of a felony criminal offense, or a misdemeanor criminal offense wherein the victim of the crime was 18 years of age or younger, and the executive director expressly determines within the complaint that the nature of the offense clearly and directly impacts the practitioner's fitness or ability to retain the specific license(s) or authorization(s) which the practitioner holds; or

2. Has been the subject of a founded report of child abuse placed upon the central registry maintained by the department of human services pursuant to Iowa Code section 232.71D and the executive director expressly determines within the complaint that the nature of the offense clearly and directly impacts the practitioner's fitness or ability to retain the specific license(s) or authorization(s) which the practitioner holds; or

3. Has not met a reporting requirement stipulated by Iowa Code section 272.15, Iowa Code section 279.43, 281—subrule 102.11(2), 282—Chapter 11, or 282—Chapter 25; or

4. Has falsified a license or authorization issued by the board; or

5. Has submitted false information on a license or authorization application filed with the board; or

6. Does not hold the appropriate license for the assignment for which the practitioner is currently employed; or

7. Has assigned another practitioner to perform services for which the practitioner is not properly licensed; or

8. Has failed to comply with a board order as prohibited by 282—paragraph 25.3(7) “c”; and

(2) The executive director verifies the information or the alleged misconduct through review of official records maintained by the board, a court, the department of human services registry of founded child abuse reports, the practitioner licensing authority of another state, the department of education, the local school district, area education agency, or authorities in charge of the nonpublic school, or the executive director is presented with the falsified license; and

(3) No other complaint has been filed.

f. The department of transportation if the licensee named in the complaint holds a behind-the-wheel instructor's certification issued by the department and the complaint relates to an incident or incidents arising during the course of driver's education instruction.

g. An employee of the department of education who, while performing official duties, becomes aware of any alleged misconduct by an individual licensed under Iowa Code section 272.2.

11.4(2) Form and content of the complaint.

a. The complaint shall be in writing and signed by at least one complainant who has personal knowledge of an alleged violation of the board's rules or related state law or an authorized representative if the complainant is an organization. (An official form may be used. This form may be obtained from the board upon request.)

b. The complaint shall show venue as “BEFORE THE BOARD OF EDUCATIONAL EXAMINERS” and shall be captioned “COMPLAINT.”

c. The complaint shall contain the following information:

(1) The full name, address and telephone number of the complainant.

(2) The full name, address and telephone number, if known, of the respondent.

(3) A concise statement of the facts which clearly and specifically apprises the respondent of the details of the alleged violation of the criteria of professional practices or the criteria of competent performance and the relief sought by the complainant.

(4) An explanation of the basis of the complainant's personal knowledge of the facts underlying the complaint.

(5) A citation to the specific rule or law which the complainant alleges has been violated.

11.4(3) Required copies—place and time of filing the complaint.

a. A copy of the complaint must be filed with the board.

b. The complaint must be delivered personally or by mail to the office of the board. The current office address is 701 East Court Avenue, Suite A, Des Moines, Iowa 50309.

c. Timely filing is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

The conduct upon which it is based must have occurred or been discovered by the complainant within three years of filing of the complaint unless good cause is shown for an extension of this limitation.

11.4(4) *Amendment or withdrawal of complaint.* A complaint or any specification thereof may be amended or withdrawn by the complainant at any time, unless the complaint was filed in accordance with the mandatory reporting requirements set forth in Iowa Code section 272.15(1). The parties to a complaint may mutually agree to the resolution of the complaint at any time in the proceeding prior to issuance of a final order by the board. The resolution must be committed to a written agreement and filed with the board. The agreement is not subject to approval by the board, but shall be acknowledged by the board and may be incorporated into an order of the board.

11.4(5) *Respondent entitled to copy of the complaint.* Immediately upon the board's determination that jurisdictional requirements have been met, the respondent shall be provided a copy of the complaint or amended complaint and any supporting documents attached to the complaint at the time of filing.

11.4(6) *Voluntary surrender of license—agreement to accept lesser sanction.* A practitioner may voluntarily surrender the practitioner's license or agree to accept a lesser sanction from the board prior to or after the filing of a complaint with the board without admitting the truth of the allegations of the complaint if a complaint is on file with the board. In order to voluntarily surrender a license or submit to a sanction, the practitioner must waive the right to hearing before the board and notify the board of the intent to surrender or accept sanction. The board may issue an order permanently revoking the practitioner's license if it is surrendered, or implementing the agreed upon sanction. The board may decline to issue an agreed upon sanction if, in the board's judgment, the agreed upon sanction is not appropriate for the circumstances of the case.

11.4(7) *Investigation of license reports.*

a. Reports received by the board from another state, territory or other jurisdiction concerning licenses or certificate revocation or suspension shall be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of written complaints.

b. Failure to report a license revocation, suspension or other disciplinary action taken by licensing authority of another state, territory or jurisdiction within 30 days of the final action by such licensing authority shall constitute cause for initiation of an investigation.

11.4(8) *Timely resolution of complaints.* Complaints filed with the board must be resolved within 180 days unless good cause can be shown for an extension of this limitation. The board will provide notice to the parties to a complaint prior to taking action to extend this time limitation upon its own motion.

11.4(9) *Confidentiality.* All complaint files, investigation files, other investigation reports, and other investigation information in the possession of the board or its employees or agents, which relate to licensee discipline, are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. However, investigative information in the possession of the board or its employees or agents which is related to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authorities in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. A final written decision and finding of fact by the board in a disciplinary proceeding is a public record.

[ARC 8406B, IAB 12/16/09, effective 1/20/10 (See Delay note at end of chapter); ARC 8823B, IAB 6/2/10, effective 5/14/10; ARC 0026C, IAB 3/7/12, effective 4/11/12; ARC 0853C, IAB 7/24/13, effective 8/28/13; ARC 1455C, IAB 5/14/14, effective 6/18/14; ARC 3196C, IAB 7/5/17, effective 8/9/17; ARC 4633C, IAB 8/28/19, effective 10/2/19; ARC 5320C, IAB 12/16/20, effective 1/20/21]

282—11.5(272) Investigation of complaints or license reports. The chairperson of the board or the chairperson's designee may request an investigator to investigate the complaint or report received by the board from another state, territory or other jurisdiction concerning license or certificate revocation or suspension pursuant to subrule 11.4(7); providing that the jurisdictional requirements have been met on the face of the complaint. The investigation shall be limited to the allegations contained on the face of the complaint. The investigator may consult an assistant attorney general concerning the investigation or

evidence produced from the investigation. Upon completion of the investigation, the investigator shall prepare a report of the investigation for consideration by the board in determining whether probable cause exists.

282—11.6(272) Ruling on the initial inquiry. Upon review of the investigator's report, the board may take any of the following actions:

11.6(1) Reject the case. If a determination is made by the board to reject the case, the complaint shall be returned to the complainant along with a statement specifying the reasons for rejection. A letter of explanation concerning the decision of the board shall be sent to the respondent.

11.6(2) Require further inquiry. If determination is made by the board to order further inquiry, the complaint and recommendations by the investigator(s) shall be returned to the investigator(s) along with a statement specifying the information deemed necessary.

11.6(3) Accept the case. If a determination is made by the board that probable cause exists to conclude that the criteria of professional practices or the criteria of competent performance have been violated, notice may be issued, pursuant to rule 282—11.7(17A,272), and a formal hearing may be conducted in accordance with rules 282—11.7(17A,272) to 282—11.21(17A,272), unless a voluntary waiver of hearing has been filed by the respondent pursuant to the provisions of subrule 11.4(6). In determining whether to issue a notice of hearing, the board may consider the following:

- a. Whether the alleged violation is of sufficient magnitude to warrant a hearing by the board.
- b. Whether there is sufficient evidence to support the complaint.
- c. Whether the alleged violation was an isolated incident.
- d. Whether adequate steps have been taken at the local level to ensure similar behavior does not occur in the future.

11.6(4) Release of investigative report. If the board finds probable cause of a violation, the investigative report will be available to the respondent upon request. Information contained within the report is confidential and may be used only in connection with the disciplinary proceedings before the board.

[ARC 1543C, IAB 7/23/14, effective 8/27/14]

282—11.7(17A,272) Notice of hearing.

11.7(1) Delivery. Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Certified mail, return receipt requested; or
- c. Publication, as provided in the Iowa Rules of Civil Procedure.

11.7(2) Contents. The notice of hearing shall contain the following information:

- a. A statement of the time, date, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matter asserted;
- e. Identification of all parties including the name, address and telephone numbers of counsel representing each of the parties where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding;
- g. Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer; and
- h. Notification of the time period in which a party may request, pursuant to Iowa Code section 17A.11 and rule 282—11.8(17A,272), that the presiding officer be an administrative law judge.

[ARC 0606C, IAB 2/20/13, effective 3/27/13]

282—11.8(17A,272) Presiding officer.

11.8(1) Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must

file a written request within 20 days after service of a notice of hearing which identifies or describes the presiding officer as the board.

11.8(2) The board may deny the request only upon a finding that one or more of the following apply:

- a.* Neither the board nor any officer of the board under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.
- b.* There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- c.* An administrative law judge with the qualifications identified in subrule 11.8(4) is unavailable to hear the case within a reasonable time.
- d.* The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- e.* The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- f.* Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.
- g.* The request was not timely filed.
- h.* The request is not consistent with a specified statute.

11.8(3) The board shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 11.8(4), the parties shall be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

11.8(4) An administrative law judge assigned to act as presiding officer in a contested case shall have the following technical expertness unless waived by the board:

- a.* A J.D. degree.
- b.* Additional criteria may be added by the board.

11.8(5) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the board. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

11.8(6) Unless otherwise provided by law, the board, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

282—11.9(17A,272) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

282—11.10(17A,272) Telephone proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen.

282—11.11(17A,272) Disqualification.

11.11(1) A presiding officer or board member shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a.* Has a personal bias or prejudice concerning a party or a representative of a party;
- b.* Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c.* Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

- d.* Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e.* Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f.* Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or
- g.* Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

11.11(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 and subrules 11.11(3) and 11.24(9).

11.11(3) In a situation where a presiding officer or board member knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

11.11(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 11.11(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

If the presiding officer determines that disqualification is appropriate, the presiding officer or board member shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 282—11.26(17A,272) and seek a stay under rule 282—11.30(17A,272).

[ARC 0026C, IAB 3/7/12, effective 4/11/12]

282—11.12(17A,272) Consolidation—severance.

11.12(1) Consolidation. The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where: (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

11.12(2) Severance. The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

282—11.13(17A,272) Pleadings.

11.13(1) Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

11.13(2) Answer. An answer shall be filed within 20 days of service of the notice of hearing unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the notice of hearing to which it responds. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

Any allegation in the notice of hearing not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

11.13(3) Amendment. Notices of hearing and answers may be amended with the consent of the parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

282—11.14(17A,272) Service and filing of pleadings and other papers.

11.14(1) Service—when required. Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

11.14(2) Service—how made. Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

11.14(3) Filing—when required. After the notice of hearing, all documents in a contested case proceeding shall be filed with the Board of Educational Examiners, 701 East Court Avenue, Suite A, Des Moines, Iowa 50309. All documents that are required to be served upon a party shall be filed simultaneously with the board.

11.14(4) Filing—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

11.14(5) Proof of mailing. Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (agency office and address) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

[ARC 5320C, IAB 12/16/20, effective 1/20/21]

282—11.15(17A,272) Discovery.

11.15(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

11.15(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 11.15(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

11.15(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible under rule 282—11.22(17A,272). In discovery matters, the parties shall honor the rules of privilege imposed by law.

282—11.16(17A,272) Subpoenas.

11.16(1) Subpoenas. In connection with the investigation set forth in rule 282—11.5(272), the board is authorized by law to subpoena books, papers, records and any other evidence to help it determine whether it should institute a contested case proceeding (hearing). After service of the hearing notification contemplated by rule 282—11.7(17A,272), the following procedures are available to the parties in order to obtain relevant and material evidence:

a. Board subpoenas for books, papers, records, and other evidence will be issued to a party upon request. Such a request must be in writing. Application should be made to the board office specifying the evidence sought. Subpoenas for witnesses may also be obtained.

b. Evidence obtained by subpoena shall be admissible at the hearing if it is otherwise admissible under rule 282—11.22(17A,272). In subpoena matters the parties shall honor the rules of privilege imposed by law.

c. The evidence outlined in Iowa Code section 17A.13(2) where applicable and relevant shall be made available to a party upon request.

d. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

11.16(2) Motion to quash or modify. The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

282—11.17(17A,272) Motions.

11.17(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

11.17(2) Any party may file a written response to a motion within 15 days after the motion is served, unless the time period is extended or shortened by rules of the agency or the presiding officer.

11.17(3) The presiding officer may schedule oral arguments on any motion.

11.17(4) Motions pertaining to the hearing, including motions for summary judgment, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

[ARC 6129C, IAB 1/12/22, effective 2/16/22]

282—11.18(17A,272) Prehearing conference.

11.18(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be conducted not less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by the presiding officer to all parties. For good cause the presiding officer may permit variances from this rule.

11.18(2) Each party shall bring to the prehearing conference:

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

b. A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

c. Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

11.18(3) In addition to the requirements of subrule 11.18(2), the parties at a prehearing conference may:

a. Enter into stipulations of law or fact;

b. Enter into stipulations on the admissibility of exhibits;

c. Identify matters which the parties intend to request be officially noticed;

- d. Enter into stipulations for waiver of any provision of law; and
- e. Consider any additional matters which will expedite the hearing.

11.18(4) Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

282—11.19(17A,272) Continuances. A party has no automatic right to a continuance or delay of the board's hearing procedure or schedule. However, a party may request a continuance of the presiding officer no later than seven days prior to the date set for hearing. The presiding officer shall have the power to grant continuances. Within seven days of the date set for hearing, no continuances shall be granted except for extraordinary, extenuating or emergency circumstances. In these situations, the presiding officer shall grant continuances after consultation, if needed, with the chairperson of the board, the executive director, or the attorney representing the board. A board member shall not be contacted in person, by mail or telephone by a party seeking a continuance.

282—11.20(17A,272) Intervention.

11.20(1) Motion. A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

11.20(2) When filed. Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor shall be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances which would delay the proceeding will ordinarily be denied.

11.20(3) Grounds for intervention. The movant shall demonstrate that: (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties.

11.20(4) Effect of intervention. If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

282—11.21(17A,272) Hearing procedures.

11.21(1) The presiding officer presides at the hearing and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings. If the presiding officer is the board or a panel thereof, an administrative law judge from the Iowa department of inspections and appeals may be designated to assist the board in conducting proceedings under this chapter. An administrative law judge so designated may rule upon motions and other procedural matters and assist the board in conducting the hearing.

11.21(2) All objections shall be timely made and stated on the record.

11.21(3) Legal representation.

a. The respondent has a right to participate in all hearings or prehearing conferences and may be represented by an attorney or another person authorized by law.

b. The office of the attorney general or an attorney designated by the executive director shall be responsible for prosecuting complaint allegations in all contested case proceedings before the board, except those cases in which the sole allegation involves the failure of a practitioner to fulfill contractual obligations. The assistant attorney general or other designated attorney assigned to prosecute a contested

case before the board shall not represent the board or the complainant in that case, but shall represent the public interest.

c. In a case in which the sole allegation involves the failure of a practitioner to fulfill contractual obligations, the person who files the complaint with the board, or the complainant's designee, shall represent the complainant during the contested case proceedings.

11.21(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

11.21(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

11.21(6) Witnesses may be sequestered during the hearing.

11.21(7) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

282—11.22(17A,272) Evidence.

11.22(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

11.22(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

11.22(3) Evidence in the proceeding shall be confined to the issues concerning allegations raised on the face of the complaint as to which the parties received notice prior to the hearing.

11.22(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

11.22(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

11.22(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

282—11.23(17A,272) Default.

11.23(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

11.23(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

11.23(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 282—11.28(17A,272). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

11.23(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

11.23(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

11.23(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

11.23(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 282—11.26(17A,272).

11.23(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

11.23(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues (but, unless the defaulting party has appeared, it cannot exceed the relief demanded).

11.23(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 282—11.30(17A,272).

[ARC 0026C, IAB 3/7/12, effective 4/11/12]

282—11.24(17A,272) Ex parte communication.

11.24(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the board or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 11.11(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

11.24(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

11.24(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

11.24(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 282—11.13(17A,272) and may be supplemented by telephone,

facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

11.24(5) Board members acting as presiding officers may communicate with each other without notice or opportunity for parties to participate.

11.24(6) The executive director or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 11.24(1).

11.24(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 282—11.19(17A,272).

11.24(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order (or disclosed). If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

11.24(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

11.24(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the department. Violation of ex parte communication prohibitions by department personnel shall be reported to (agency to designate person to whom violations should be reported) for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

282—11.25(17A,272) Recording costs. Upon request, the board shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of that recordation, unless otherwise provided by law.

282—11.26(17A,272) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the presiding officer. In determining whether to do so, the board shall weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

282—11.27(17A,272) Final decision.

11.27(1) When the board presides over the reception of evidence at the hearing, its decision is a final decision.

11.27(2) When the board does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the board without further proceedings unless there is an appeal to, or review on motion of, the board within the time provided in rule 282—11.28(17A,272).

282—11.28(17A,272) Appeals and review.

11.28(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision.

11.28(2) *Review.* The board may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

11.28(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the board. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

11.28(4) *Requests to present additional evidence.* A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

11.28(5) *Scheduling.* The board shall issue a schedule for consideration of the appeal.

11.28(6) *Briefs and arguments.* Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs.

The board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

282—11.29(17A,272) Applications for rehearing.

11.29(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

11.29(2) *Content of application.* The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the board decision on the existing record and whether, on the basis of the grounds enumerated in subrule 11.28(4), the applicant requests an opportunity to submit additional evidence.

11.29(3) *Time of filing.* The application shall be filed with the board within 20 days after issuance of the final decision.

11.29(4) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board shall serve copies on all parties.

11.29(5) *Disposition.* Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

282—11.30(17A,272) Stays of board actions.**11.30(1) When available.**

a. Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The executive director may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the board for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

11.30(2) When granted. In determining whether to grant a stay, the executive director or presiding officer shall consider the factors listed in Iowa Code section 17A.19(5).

11.30(3) Vacation. A stay may be vacated by the issuing authority upon application of the board or any other party.

[ARC 0026C, IAB 3/7/12, effective 4/11/12]

282—11.31(17A,272) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

282—11.32(17A,272) Emergency adjudicative proceedings.

11.32(1) Necessary emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18 to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order the board shall consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

11.32(2) Issuance of order.

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board's decision to take immediate action.

b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the board;

(3) Certified mail to the last address on file with the board;

(4) First-class mail to the last address on file with the board; or

(5) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

11.32(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

11.32(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the board shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order shall include notification of the date on which board proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing.

282—11.33(272) *Methods of discipline.* The board has the authority to impose the following disciplinary sanctions:

1. Revoke a practitioner's license, certificate or authorization.
2. Suspend a practitioner's license, certificate or authorization until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, a practitioner from engaging in specified practices, methods, or acts.
4. Require additional education or training.
5. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
6. Issue a public letter of reprimand.
7. Order any other resolution appropriate to the circumstances of the case.
8. Impose fees as provided in Iowa Code section 272.2(24).

[ARC 6130C, IAB 1/12/22, effective 2/16/22]

282—11.34(272) *Reinstatement.* Any person whose license, certificate or authorization to practice has been suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of the suspension.

11.34(1) All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for reinstatement. Such application shall be docketed in the original case in which the license, certificate or authorization was suspended. All proceedings upon the application for reinstatement shall be subject to the same rules of procedure as other cases before the board.

11.34(2) An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the suspension of the respondent's license, certificate or authorization no longer exists and that it will be in the public interest for the license, certificate or authorization to be reinstated. The burden of proof to establish such facts shall be on the respondent.

11.34(3) An order denying or granting reinstatement shall be based upon a decision which incorporates findings of fact and conclusions of law.

282—11.35(272) *Application denial and appeal.* The executive director is authorized by Iowa Code section 272.7 to grant or deny applications for licensure. If the executive director denies an application for an initial or exchange license, certificate, or authorization, the executive director shall send to the applicant by regular first-class mail written notice identifying the factual and legal basis for denying the application. If the executive director denies an application to renew an existing license, certificate, or authorization, the provisions of rule 282—11.36(272) shall apply.

11.35(1) *Mandatory grounds for license denial.* The executive director shall deny an application based on the grounds set forth in Iowa Code section 272.2(14), including:

- a. The license application is fraudulent.
- b. The applicant's license or certification from another state is suspended or revoked.
- c. The applicant fails to meet board standards for application or for license renewal.
- d. The applicant is less than 21 years of age, except that a coaching authorization or paraeducator certificate may be issued to an applicant who is 18 years of age or older, as provided in Iowa Code sections 272.12 and 272.31. A student enrolled in a practitioner preparation program who meets board requirements for a temporary, limited purpose license and who is seeking to teach as part of the practicum or internship may be less than 21 years of age.
- e. The applicant has been convicted of one of the disqualifying criminal convictions set forth in paragraph 11.35(2) "a."

11.35(2) *Conviction of a crime and founded child abuse.*

a. *Disqualifying criminal convictions.* The board shall deny an application for licensure if the applicant or licensee has been convicted, has pled guilty to, or has been found guilty of the following criminal offenses, regardless of whether the judgment of conviction or sentence was deferred:

(1) Any of the following forcible felonies included in Iowa Code section 702.11: child endangerment, assault, murder, sexual abuse, or kidnapping;

(2) Any of the following criminal sexual offenses, as provided in Iowa Code chapter 709, involving a child:

1. First-, second- or third-degree sexual abuse committed on or with a person who is under the age of 18;

2. Lascivious acts with a child;

3. Assault with intent to commit sexual abuse;

4. Indecent contact with a child;

5. Sexual exploitation by a counselor;

6. Lascivious conduct with a minor;

7. Enticing a minor under Iowa Code section 710.10; or

8. Human trafficking under Iowa Code section 710A.2;

(3) Incest involving a child as prohibited by Iowa Code section 726.2;

(4) Dissemination and exhibition of obscene material to minors as prohibited by Iowa Code section 728.2;

(5) Telephone dissemination of obscene material to minors as prohibited by Iowa Code section 728.15;

(6) Any offense specified in the laws of another jurisdiction, or any offense that may be prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in paragraph 11.35(2) "a"; or

(7) Any offense under prior laws of this state or another jurisdiction, or any offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in paragraph 11.35(2) "a."

b. *Other criminal convictions and founded child abuse.* When determining whether a person should be denied licensure based on the conviction of any other crime, including a felony, or a founded report of child abuse, the executive director and the board shall consider the following:

(1) The nature and seriousness of the crime or founded abuse in relation to the position sought;

(2) The time elapsed since the crime or founded abuse was committed;

(3) The degree of rehabilitation which has taken place since the crime or founded abuse was committed;

(4) The likelihood that the person will commit the same crime or abuse again;

(5) The number of criminal convictions or founded abuses committed; and

(6) Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.

c. Speech and intellectual freedom protections. The board may deny a license to or revoke the license of a person upon the board's finding by a preponderance of evidence that the person knowingly and intentionally discriminated against a student in violation of Iowa Code section 261H.2(3) or 279.73.

11.35(3) *Fraudulent applications.* An application shall be considered fraudulent pursuant to Iowa Code section 272.2(14) "b"(3) if it contains any false representation of a material fact or any omission of a material fact which should have been disclosed at the time of application for licensure or is submitted with a false or forged diploma, certificate, affidavit, identification, or other document material to the applicant's qualification for licensure or material to any of the grounds for denial set forth in Iowa Code section 272.2(14).

11.35(4) *Appeal procedure.*

a. An applicant who is aggrieved by the denial of an application for licensure and who desires to challenge the decision of the executive director must appeal the decision and request a hearing before the board within 30 calendar days of the date the notice of license denial is mailed. An appeal and request for hearing must be in writing and is deemed made on the date of the United States Postal Service nonmetered postmark or the date of personal service to the board office. The request for hearing shall specify the factual or legal errors the applicant contends were made by the executive director, must identify any factual disputes upon which the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure. If a request for hearing is timely made, the executive director shall promptly issue a notice of contested case hearing on the grounds asserted by the applicant.

b. The board, in its discretion, may act as presiding officer at the contested case hearing, may hold the hearing before a panel of three board members, or may request that an administrative law judge act as presiding officer. The applicant may request that an administrative law judge act as presiding officer and render a proposed decision pursuant to rule 282—11.8(17A,272). A proposed decision by a panel of board members or an administrative law judge is subject to appeal or review by the board pursuant to rule 282—11.28(17A,272).

c. Hearings concerning licensure denial shall be conducted according to the contested case procedural rules in this chapter. Evidence supporting the denial of the license may be presented by an assistant attorney general. While each party shall have the burden of establishing the affirmative of matters asserted, the applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure.

d. On appeal, the board may grant or deny the application for licensure. If the application for licensure is denied, the board shall state the reason or reasons for the denial and may state conditions under which the application could be granted, if applicable.

11.35(5) *Judicial review.* Judicial review of a final order of the board denying licensure may be sought in accordance with the provisions of Iowa Code section 17A.19 which are applicable to judicial review of an agency's final decision in a contested case. In order to exhaust administrative remedies, an applicant aggrieved by the executive director's denial of an application for licensure must timely appeal the adverse decision to the board.

[ARC 9209B, IAB 11/3/10, effective 12/8/10; ARC 0025C, IAB 3/7/12, effective 4/11/12; ARC 0026C, IAB 3/7/12, effective 4/11/12; ARC 6129C, IAB 1/12/22, effective 2/16/22]

282—11.36(272) Denial of renewal application. If the executive director denies an application to renew a license, certificate or authorization, a notice of hearing shall be issued to commence a contested case proceeding. The executive director may deny a renewal application on the same grounds as those that apply to an application for initial or exchange licensure described in subrules 11.35(1) to 11.35(3).

11.36(1) *Hearing procedure.* Hearings on denial of an application to renew a license shall be conducted according to the contested case procedural rules in this chapter. Evidence supporting the denial of the license may be presented by an assistant attorney general. The provisions of subrules 11.35(4) and 11.35(5) shall apply.

11.36(2) *Judicial review.* Judicial review of a final order of the board denying renewal of licensure may be sought in accordance with the provisions of Iowa Code section 17A.19 which are applicable to judicial review of an agency's final decision in a contested case.

11.36(3) *Impact of denial of renewal application.* Pursuant to Iowa Code section 17A.18(2), if the licensee has made timely and sufficient application for renewal, an existing license shall not expire until the last day for seeking judicial review of the board's final order denying the application or a later date fixed by order of the board or reviewing court.

11.36(4) *Timeliness of renewal application.* Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application shall be:

- a. Received by the board on or before the date the license is set to expire or lapse;
- b. Signed by the licensee if submitted in paper form or certified as accurate if submitted electronically;
- c. Fully completed; and
- d. Accompanied by the proper fee. The fee shall be deemed improper if the amount is incorrect, the fee was not included with the application, or the licensee's check is unsigned or returned for insufficient funds.

282—11.37(272) Mandatory reporting of contract nonrenewal or termination or resignation based on allegations of misconduct. The board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board any instance of disciplinary action taken against a person who holds a license, certificate, or authorization issued by the board for conduct that would constitute a violation of 282—subparagraph 25.3(1)“e”(4), subrule 25.3(2), paragraph 25.3(3)“e,” or paragraph 25.3(4)“b.” In addition, the board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person's contract executed under Iowa Code sections 279.12, 279.13, 279.15, 279.16, 279.18 through 279.21, 279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of 282—subparagraph 25.3(1)“b”(1), subparagraph 25.3(1)“e”(4), subrule 25.3(2), paragraph 25.3(3)“e,” or paragraph 25.3(4)“b,” when the board or reporting official has a good-faith belief that the incident occurred or the allegation is true.

11.37(1) *Method of reporting.* The report required by this rule may be made by completion and filing of the complaint form described in subrule 11.4(2) or by the submission of a letter to the executive director of the board which includes:

- a. The full name, address, telephone number, title and signature of the reporter;
- b. The full name, address, and telephone number of the person who holds a license, certificate or authorization issued by the board;
- c. A concise statement of the circumstances under which the termination, nonrenewal, or resignation occurred;
- d. The date action was taken which necessitated the report, including the date of disciplinary action taken, nonrenewal or termination of a contract for reasons of alleged or actual misconduct, or resignation of a person following an incident or allegation of misconduct as required under Iowa Code section 272.15(1), or awareness of alleged misconduct as required under Iowa Code section 272.15(2); and
- e. Any additional information or documentation which the reporter believes will be relevant to assessment of the report pursuant to subrule 11.37(4).

11.37(2) *Timely reporting required.* The report required by this rule shall be filed within 30 days of the date action was taken which necessitated the report or within 30 days of an employee becoming aware of the alleged misconduct under Iowa Code section 272.15(2).

11.37(3) Confidentiality of report. Information reported to the board in accordance with this rule is privileged and confidential, and, except as provided in Iowa Code section 272.13, is not subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and is not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline.

11.37(4) Action upon receipt of report.

a. Upon receipt of a report under this rule, the executive director of the board shall review the information reported to determine whether a complaint investigation should be initiated.

b. In making this determination, the executive director shall consider the nature and seriousness of the reported misconduct in relation to the position sought or held, the time elapsed since the misconduct, the degree of rehabilitation, the likelihood that the individual will commit the same misconduct again, and the number of reported incidents of misconduct.

c. If the executive director determines a complaint should not be initiated, no further formal action will be taken and the matter will be closed.

d. If the executive director determines a complaint investigation should be initiated, the executive director shall assign the matter for investigation pursuant to rule 282—11.5(272).

11.37(5) Proceedings upon investigation. From the time of initiation of an investigation, the matter will be processed in the same manner as a complaint filed under rule 282—11.4(17A,272).

[ARC 4699C, IAB 10/9/19, effective 11/13/19]

282—11.38(256,272) Reporting by department of education employees.

11.38(1) Method of reporting. A report of misconduct made by the director, pursuant to Iowa Code section 256.9(52), or made by an employee of the department of education, pursuant to Iowa Code section 272.15(2), shall comply with the requirements of subrule 11.37(1).

11.38(2) Confidentiality. Information reported to the board in accordance with this rule is privileged and confidential, except as provided in Iowa Code section 272.13.

11.38(3) Review and investigation of report. The report shall be reviewed and investigated pursuant to subrules 11.37(4) and 11.37(5).

[ARC 0026C, IAB 3/7/12, effective 4/11/12]

282—11.39(272) Denial of application during a pending professional practices case. The executive director may deny an application for a Class B license if the applicant is currently under investigation and probable cause has been determined by the board.

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¹ Effective date of 282—Ch 11 delayed 45 days by the Administrative Rules Review Committee at its meeting held March 10, 2000; delay lifted by the Committee at its meeting held April 7, 2000, effective April 8, 2000.

² Two ARCs

³ Effective date of ARC 8406B delayed until the adjournment of the 2010 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held January 5, 2010.

CHAPTER 12 FEES

282—12.1(272) Issuance of licenses, certificates, authorizations, and statements of professional recognition. All application and licensure fees are nonrefundable. The fee for the issuance of a license, certificate, statement of professional recognition, or authorization shall be \$85 unless otherwise specified below:

1. Class E emergency license shall be \$150.
2. Paraeducator certificate shall be \$40.
3. Behind-the-wheel authorization shall be \$40.
4. Military exchange license shall not require a fee for issuance.

[ARC 9743B, IAB 9/7/11, effective 10/12/11; ARC 2017C, IAB 6/10/15, effective 7/15/15; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter and Nullification note at end of chapter; ARC 5304C, IAB 12/2/20, effective 1/6/21]

282—12.2(272) Fees for the renewal or extension of licenses, certificates, statements of professional recognition, and authorizations. The fee for the renewal or extension of a license, certificate, statement of professional recognition, or authorization shall be \$85 unless otherwise specified below:

1. The renewal of the paraeducator certificate shall be \$40.
2. The renewal of the behind-the-wheel authorization shall be \$40.
3. A one-year extension for renewal of a coaching authorization shall be \$40.
4. A one-year extension of the initial license shall be \$25. This extension may be issued if the applicant needs one additional year to meet the experience requirement for the standard license, but has met Iowa teaching standards, pursuant to rule 282—20.4(272).

5. A \$25 fee for an extension of the initial administrator license, which may be issued instead of renewing the initial administrator license if the applicant verifies one of the criteria listed in 282—subrule 20.8(2).

[ARC 9743B, IAB 9/7/11, effective 10/12/11; ARC 2017C, IAB 6/10/15, effective 7/15/15; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter and Nullification note at end of chapter]

282—12.3(272) Evaluation fee. Each application from an out-of-state institution for initial licensure shall include, in addition to the basic fee for the issuance of a license, a one-time nonrefundable \$60 evaluation fee.

[ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter and Nullification note at end of chapter; ARC 3196C, IAB 7/5/17, effective 8/9/17]

282—12.4(272) Adding endorsements.

12.4(1) Fee for each added endorsement. The fee for each additional endorsement to a license following the issuance of the initial license and endorsement(s) shall be \$50. The fee for each additional endorsement added to a paraeducator certificate shall be \$25.

12.4(2) Fee for transcript review. Applicants may ask the board of educational examiners to analyze transcripts if the applicant believes all requirements have been met. Applicants who request board of educational examiners transcript analysis shall be assessed a \$60 transcript evaluation fee for each new endorsement requested. This fee shall be in addition to the fee for adding the endorsement.

[ARC 2017C, IAB 6/10/15, effective 7/15/15; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter and Nullification note at end of chapter]

282—12.5(272) Duplicate licenses, authorizations, and statements of professional recognition. The fee for the issuance of a duplicate practitioner's license, certificate, statement of professional recognition, or authorization shall be \$15.

[ARC 2017C, IAB 6/10/15, effective 7/15/15; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter and Nullification note at end of chapter]

282—12.6(272) Late fees.

12.6(1) An additional fee of \$25 per calendar month, not to exceed \$150, shall be imposed if an application for renewal or conversion is submitted after the date of expiration of a practitioner's license.

Waiver of the late fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

12.6(2) Failure to hold an endorsement. An additional fee of \$25 per calendar month, not to exceed \$150, shall be imposed if the practitioner holds a valid Iowa license but does not hold an endorsement for the type of service for which the practitioner is employed.

12.6(3) Failure to hold valid Iowa license or authorization. An additional fee of \$100 per calendar month, not to exceed \$500, shall be imposed if the practitioner does not hold a valid Iowa license or authorization. The fee will begin to be assessed on the first day of the school year for which the practitioner is employed until the practitioner submits a completed application packet for the appropriate license. The penalty will enforce Iowa Code section 272.7. Waiver of the fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

[ARC 2017C, IAB 6/10/15, effective 7/15/15; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter and Nullification note at end of chapter; ARC 3196C, IAB 7/5/17, effective 8/9/17]

282—12.7(272) Fees nonrefundable. All fees as set out in this chapter are nonrefundable.

282—12.8(272) Portfolio review and evaluation fee. For the professional education core, the portfolio review and evaluation fee shall be \$500.

[ARC 8606B, IAB 3/10/10, effective 4/14/10; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter and Nullification note at end of chapter; ARC 3196C, IAB 7/5/17, effective 8/9/17]

282—12.9(272) Retention of incomplete applications.

12.9(1) *Timeline for complete application materials to be submitted.* Upon receipt of an incomplete application, the executive director will send a letter of deficiencies to the applicant stipulating that complete application materials must be submitted to the board office within 45 days of the date the letter is received. If the materials are not received within that timeline, the application process will be closed. If the applicant submits information after the 45-day deadline, the application process requires submission of a complete set of application materials and fees, including late fees if applicable, for practicing with an expired license, without the proper endorsement, or without an Iowa board-issued license.

12.9(2) *Background check.* The background check fee will be valid for one year. If a license is not issued within one year of a completed background check, the background check shall be considered void.

12.9(3) *Timeline for audited online renewals.* Upon receipt of notification that the online renewal application has been audited, the applicant shall have 30 days to submit the official transcripts and mandatory reporter verification to the board office. If the materials are not received within that timeline, the applicant will be notified that the application process is closed. If the applicant submits information after the 30-day deadline, the application process requires submission of a complete set of application materials and fees. If the license expires during the 30-day deadline and the applicant is teaching, the school district will be notified that the applicant's license is expired and the individual shall not continue teaching until the complete application materials are submitted to the board office.

12.9(4) *Request for additional time.* If the applicant is not able to submit the application materials by the deadline, the applicant may contact the executive director with a request for additional time. The applicant must submit verification as to the need for the additional time. The executive director will review the request and provide a written decision either approving or denying the request.

[ARC 9386B, IAB 2/23/11, effective 3/30/11; ARC 2017C, IAB 6/10/15, effective 7/15/15]

282—12.10(272) Fees for processing complaints and conducting hearings.

12.10(1) *Administrator licensure sanction.* If an administrator is a respondent in a complaint for violation of the code of professional conduct and ethics and the final board action results in a sanction, the administrator will be required to pay the fees that were related to processing the complaint and conducting the hearing. Such fees may include a fee for personal service by a sheriff, a fee for legal notice when placed in a newspaper, a fee for transcription service or court reporter fee, and other fees assessed as costs by the board.

12.10(2) *Timeline for payment and board order.* Fees must be submitted to the board office within 45 days from the issuance of the letter outlining the required fees. Payment of fees may be imposed as a board order.

[ARC 6130C, IAB 1/12/22, effective 2/16/22]

These rules are intended to implement Iowa Code chapter 272.

[Filed 12/24/08, Notice 10/22/08—published 1/14/09, effective 2/18/09]

[Filed ARC 8606B (Notice ARC 8251B, IAB 11/4/09), IAB 3/10/10, effective 4/14/10]

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[Filed ARC 2017C (Notice ARC 1919C, IAB 3/18/15), IAB 6/10/15, effective 7/15/15]

[Filed ARC 2229C (Notice ARC 2131C, IAB 9/2/15), IAB 11/11/15, effective 12/16/15]^{1,2}

[Filed ARC 3196C (Notice ARC 3012C, IAB 4/12/17), IAB 7/5/17, effective 8/9/17]

[Filed ARC 5304C (Notice ARC 5168C, IAB 9/9/20), IAB 12/2/20, effective 1/6/21]

[Filed ARC 6130C (Notice ARC 5938C, IAB 10/6/21), IAB 1/12/22, effective 2/16/22]

¹ December 16, 2015, effective date of ARC 2229C [12.1 to 12.6, 12.8] delayed until the adjournment of the 2016 General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 2015.

² See SJR 2007 of the 2016 Session of the Eighty-sixth General Assembly regarding nullification of the amendments to 12.1 to 12.6 and 12.8 (ARC 2229C, IAB 11/11/15). Prior language restored IAC Supplement 4/27/16.

CHAPTER 13
ISSUANCE OF TEACHER LICENSES AND ENDORSEMENTS
[Prior to 1/14/09, see Educational Examiners Board[282] Ch 14]

282—13.1(272) All applicants desiring Iowa licensure.

13.1(1) Definitions.

“Coursework” means requirements completed for semester hour credit through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“Degree” means a specific qualification earned by a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“Nontraditional” means any method of teacher preparation that falls outside the traditional method of preparing teachers.

“Proficiency,” for the purposes of paragraph 13.5(2) *“e,”* means that an applicant has passed all parts of the standard.

“Recognized non-Iowa teacher preparation institution” means an institution that is state-approved and accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

“State-approved” means a program for teacher preparation approved for state licensure.

“Traditional” means a one- or two-year sequenced teacher preparation program of instruction taught at a state-approved college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education that includes commonly recognized pedagogy classes coursework and requires a student teaching component.

13.1(2) Licenses, authorizations, certificates, and statements of professional recognition. Licenses, authorizations, certificates, and statements of professional recognition are issued upon application filed on a form provided by the board of educational examiners and upon completion of the following:

a. National criminal history background check. An initial applicant will be required to submit a completed fingerprint packet that accompanies the application to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet will be assessed to the applicant.

b. Iowa division of criminal investigation background check. An Iowa division of criminal investigation (DCI) background check will be conducted on initial applicants. The fee for the evaluation of the DCI background check will be assessed to the applicant.

c. Registries and records check. A check of the following registries and records will be conducted on initial applicants: the sex offender registry under Iowa Code section 692A.121, the central registry for child abuse information established under Iowa Code chapter 235A, the central registry for dependent adult abuse information maintained under Iowa Code chapter 235B, and the information in the Iowa court information system available to the general public. The fee for checks of these registries and records will be assessed to the applicant.

13.1(3) Temporary permits. The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check and registries and records check set forth in paragraphs 13.1(2) *“b”* and *“c.”* The temporary permit shall serve as evidence of the applicant’s authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

[ARC 0563C, IAB 1/23/13, effective 1/1/13; ARC 2230C, IAB 11/11/15, effective 12/16/15; ARC 3633C, IAB 2/14/18, effective 3/21/18; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—13.2(272) Applicants from recognized Iowa institutions. Rescinded ARC 2016C, IAB 6/10/15, effective 7/15/15.

282—13.3(272) Applicants from non-Iowa institutions. Rescinded **ARC 2016C**, IAB 6/10/15, effective 7/15/15.

282—13.4(272) Applicants from foreign institutions. Rescinded **ARC 2016C**, IAB 6/10/15, effective 7/15/15.

282—13.5(272) Teacher licenses. A license may be issued to an applicant who fulfills the general requirements set out in subrule 13.5(1) and the specific requirements set out for each license.

13.5(1) General requirements. The applicant shall:

- a. Have a baccalaureate degree.
- b. Have completed a state-approved teacher education program.
- c. Have completed the teacher preparation coursework set forth in 281—subrules 79.15(2) to 79.15(5).
- d. Have completed student teaching in the subject area and grade level endorsement desired.
- e. Have completed the requirements for one of the basic teaching endorsements.
- f. Provide a recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed.

13.5(2) Applicants from non-Iowa institutions.

a. Original application. Applicants under this subrule have completed a teacher preparation program outside the state of Iowa and are applying for their first Iowa teaching license.

b. In addition to the requirements set forth in subrule 13.5(1), an applicant from a non-Iowa institution:

(1) Shall submit a copy of a valid or expired regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate.

(2) Shall provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013, and the applicant has verified fewer than three years of valid out-of-state teaching experience. If the teacher preparation program was completed prior to January 1, 2013, or if the applicant has verified three years of valid out-of-state teaching experience, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed (or verify highly qualified status) or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

(3) Shall provide an official institutional transcript(s) to be analyzed for the requirements necessary for Iowa licensure. An applicant must have completed at least 75 percent of the coursework as outlined in 281—subrules 79.15(2) to 79.15(5) and an endorsement requirement through a two- or four-year institution in order for the endorsement to be included on the license. An applicant who has not completed at least 75 percent of the coursework for at least one of the basic Iowa teaching endorsements completed will not be issued a license. An applicant seeking a board of educational examiners transcript review must have achieved a C- grade or higher in the courses that will be considered for licensure. An applicant who has met the minimum coursework requirements in this subrule will not be subject to additional coursework deficiency requirements if the applicant provides verification of ten years of successful teaching experience or if the applicant provides verification of five years of successful experience and a master's degree.

(4) Shall demonstrate recency of experience by providing verification of either one year of teaching experience or six semester hours of college credit during the five-year period immediately preceding the date of application.

(5) Shall not be subject to any pending disciplinary proceedings in any state or country.

(6) Shall comply with all requirements with regard to application processes and payment of licensure fees.

c. If through a transcript analysis, the teacher preparation coursework as outlined in 281—subrules 79.15(2) to 79.15(5) or one of the basic teaching endorsement requirements for Iowa is not met, the

applicant may be eligible for the equivalent Iowa endorsement areas, as designated by the Iowa board of educational examiners, based on current and valid National Board Certification.

d. If the teacher preparation program was considered nontraditional, candidates will be asked to verify the following:

- (1) That the program was for secondary education;
- (2) A baccalaureate degree with a cumulative grade point average of 2.50 on a 4.0 scale; and
- (3) The completion of a student teaching or internship experience or three years of teaching experience.

e. If the teacher preparation coursework as outlined in 281—subrules 79.15(2) to 79.15(5) cannot be reviewed through a traditional transcript evaluation, a portfolio review and evaluation process may be utilized.

(1) An applicant must demonstrate proficiency in a minimum of at least 75 percent of the teacher preparation coursework as outlined in 281—subrules 79.15(2) to 79.15(5).

(2) An applicant must meet with the board of educational examiners to answer any of the board's questions concerning the portfolio.

f. An applicant under this subrule or subrule 13.5(3) shall be granted an Iowa teaching license and will not be subject to additional assessments or coursework deficiencies if the following additional requirements have been met:

(1) Verification of Iowa residency, or, for military spouses, verification of a permanent change of military installation.

(2) Valid or expired regular teaching certificate or license in good standing from another state without pending disciplinary action, valid for a minimum of one year, exclusive of a temporary, emergency or substitute license or certificate. Endorsements shall be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.

(3) Passing test scores for the required assessments for the state where the teaching license was issued.

g. Holders of an Iowa regional exchange license issued prior to January 1, 2021, may submit a new application if the requirements in this subrule would have been met at the time of their initial application.

13.5(3) Applicants from foreign institutions. An applicant for initial licensure whose preparation was completed in a foreign institution must additionally obtain a course-by-course credential evaluation report completed by one of the board-approved credential evaluation services and then file this report with the Iowa board of educational examiners for a determination of eligibility for licensure. After receiving the notification of eligibility by the Iowa board of educational examiners, the applicant must provide verification of successfully passing the Iowa-mandated assessment(s) pursuant to subparagraph 13.5(2) “b”(2).

[ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 2584C, IAB 6/22/16, effective 7/27/16; ARC 3829C, IAB 6/6/18, effective 7/11/18; ARC 5321C, IAB 12/16/20, effective 1/20/21; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—13.6(272) Specific requirements for an initial license. An initial license valid for a minimum of two years with an expiration date of June 30 may be issued to an applicant who meets the general requirements set forth in rule 282—13.5(272).

13.6(1) For an applicant applying pursuant to subrule 13.5(1), a nonrenewable temporary initial license may be issued if the applicant presents an assessment waiver issued by the director of the Iowa department of education within 30 days of the waiver issuance. The applicant must meet the assessment requirement in order to apply for full Iowa licensure.

13.6(2) For an applicant applying pursuant to subrule 13.5(2), a nonrenewable temporary initial license may be issued to the applicant if all requirements have been met with the exception of the assessments pursuant to subparagraph 13.5(2) “b”(2). The applicant must meet the assessment requirement in order to apply for full Iowa licensure.

13.6(3) The temporary initial license shall be valid for one year from the date of issuance. This license is nonrenewable and may not be extended. This license may only be issued if the applicant

provides an affidavit from the administrator of an Iowa school district or accredited nonpublic school verifying that an offer of a teaching contract has been made and that the employer made every reasonable and good-faith effort to employ a fully licensed teacher for the specified subject and was unable to employ such a teacher.

[ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 3979C, IAB 8/29/18, effective 10/3/18; ARC 4621C, IAB 8/28/19, effective 8/7/19]

282—13.7(272) Specific requirements for a standard license. A standard license valid for five years may be issued to an applicant who:

1. Meets the general requirements set forth in rule 282—13.5(272), and
2. Shows evidence of successful completion of a state-approved mentoring and induction program or mentoring through a state-approved career, leadership, and compensation framework by meeting the Iowa teaching standards as determined by a comprehensive evaluation and two years' successful teaching experience within the applicant's approved endorsement area(s). In lieu of completion of an Iowa state-approved mentoring program, the applicant must provide evidence of three years' successful teaching experience within the applicant's approved endorsement area(s) at any of the following:

- An accredited nonpublic school in this state.
- A preschool program approved by the United States Department of Health and Human Services.
- Preschool programs at school districts approved to participate in the preschool program under Iowa Code chapter 256C.
- Shared visions programs receiving grants from the child development coordinating council under Iowa Code section 256A.3.
- Preschool programs receiving moneys from the school ready children grants account of the early childhood Iowa fund created in Iowa Code section 256I.11.
- An out-of-state PK-12 educational setting.

[ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 2792C, IAB 11/9/16, effective 12/14/16; ARC 3634C, IAB 2/14/18, effective 3/21/18]

282—13.8(272) Specific requirements for a master educator's license. A master educator's license is valid for five years and may be issued to an applicant who:

1. Is the holder of or is eligible for a standard license as set out in rule 282—13.7(272), and
2. Verifies five years of successful teaching experience, and
3. Completes one of the following options:
 - Master's degree in a recognized endorsement area, or
 - Master's degree in curriculum, effective teaching, or a similar degree program which has a focus on school curriculum or instruction.

[ARC 1168C, IAB 11/13/13, effective 12/18/13; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—13.9(272) Teacher intern license.

13.9(1) Authorization. The teacher intern is authorized to teach in grades 7 to 12.

13.9(2) Term. The term of the teacher intern license will be one school year. This license is nonrenewable.

13.9(3) Teacher intern requirements. A teacher intern license may be issued to an applicant who has been recommended by an institution with a state-approved intern program and who has met the background check requirements set forth in rule 282—13.1(272).

13.9(4) Requirements to convert the teacher intern license to the initial license. An initial license shall be issued upon application provided that the teacher intern has met the requirements as verified by the recommendation from the state-approved program.

13.9(5) Requirements to extend the teacher intern license if the teacher intern does not complete all of the education coursework during the term of the teacher intern license.

a. A one-year extension of the teacher intern license may be issued upon application provided that the teacher intern has met both of the following requirements:

- (1) Successful completion of one year of teaching experience during the teacher internship.

(2) Verification by the recommending official at the approved teacher intern program that the teacher intern has not completed all of the coursework required for the initial license.

b. Only one year of teaching experience during the term of the teacher intern license or the extension of a teacher intern license may be used to convert the teacher intern license to a standard teaching license.

[ARC 8688B, IAB 4/7/10, effective 5/12/10; ARC 9925B, IAB 12/14/11, effective 1/18/12; ARC 0698C, IAB 5/1/13, effective 6/5/13; ARC 0865C, IAB 7/24/13, effective 8/28/13; ARC 1374C, IAB 3/19/14, effective 4/23/14; ARC 2016C, IAB 6/10/15, effective 7/15/15]

282—13.10(272) Specific requirements for a Class A extension license. A nonrenewable Class A extension license valid for one year may be issued to an individual under one of the following conditions:

13.10(1) *Based on an expired Iowa certificate or license, exclusive of a Class A extension or Class B license.*

a. The holder of an expired license, exclusive of a Class A extension or Class B license, shall be eligible to receive a Class A extension license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.

b. The holder of an expired license who is currently under contract with an Iowa educational unit (area education agency/local education agency/local school district) and who does not meet the renewal requirements for the license held shall be required to secure the signature of the superintendent or designee before the license will be issued.

13.10(2) *Based on a mentoring and induction program.* An applicant may be eligible for a Class A extension license if the school district, after conducting a comprehensive evaluation, recommends and verifies that the applicant shall participate in the mentoring program for a third year. No further extensions are available for this type of Class A extension license.

[ARC 7987B, IAB 7/29/09, effective 9/2/09; ARC 8134B, IAB 9/9/09, effective 10/14/09; ARC 8957B, IAB 7/28/10, effective 9/1/10; ARC 2016C, IAB 6/10/15, effective 7/15/15]

282—13.11(272) Specific requirements for a Class B license. A Class B license, which is valid for two years and which is nonrenewable, may be issued to an individual under the following conditions:

13.11(1) *Endorsement in progress.* The individual has a valid initial, standard, master educator, permanent professional, Class A extension, exchange, or professional service license and one or more endorsements but is seeking to obtain some other endorsement. A Class B license may be issued if requested by an employer and if the individual seeking to obtain some other endorsement has completed at least two-thirds of the requirements, or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for the endorsement. A Class B license may not be issued for the driver's education endorsement.

13.11(2) *Program of study.* The college or university must outline the program of study necessary to meet the endorsement requirements for specified areas. This program of study must be attached to the application.

13.11(3) *Request for executive director decision.* If the minimum content requirements have not been met for the Class B license, a one-year executive director decision license may be issued if requested by the school district and if the school district can demonstrate that a candidate with the proper endorsement was not found after a diligent search. The executive director decision license may not be renewed and will expire on June 30 of the fiscal year in which it was issued.

13.11(4) *Expiration.* The Class B license will expire on June 30 of the fiscal year in which it was issued plus one year.

[ARC 7987B, IAB 7/29/09, effective 9/2/09; ARC 8133B, IAB 9/9/09, effective 10/14/09; ARC 9207B, IAB 11/3/10, effective 12/8/10; ARC 9573B, IAB 6/29/11, effective 8/3/11; ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 3633C, IAB 2/14/18, effective 3/21/18]

282—13.12(272) Specific requirements for a Class C license. Rescinded IAB 7/29/09, effective 9/2/09.

282—13.13(272) Specific requirements for a Class D occupational license. Rescinded IAB 7/29/09, effective 9/2/09.

282—13.14(272) Specific requirements for a Class E emergency extension license. A nonrenewable license valid for one year may be issued to an individual as follows:

13.14(1) *Expired license.* Based on an expired Class A or Class B license, the holder of the expired license shall be eligible to receive a Class E emergency extension license upon application and submission of all required materials.

13.14(2) *Application.* The application process will require transcripts of coursework completed during the term of the expired license, a program of study indicating the coursework necessary to obtain full licensure, and registration for coursework to be completed during the term of the Class E emergency extension license. The Class E emergency extension license will be denied if the applicant has not completed any coursework during the term of the Class A or Class B license unless extenuating circumstances are verified.

[ARC 7987B, IAB 7/29/09, effective 9/2/09; ARC 2016C, IAB 6/10/15, effective 7/15/15]

282—13.15(272) Specific requirements for a Class G license. Rescinded ARC 5321C, IAB 12/16/20, effective 1/20/21.

282—13.16(272) Specific requirements for a substitute teacher's license.

13.16(1) *Substitute teacher requirements.* A substitute teacher's license may be issued to an individual who has completed a teacher preparation program and been the holder of, or presently holds, or is eligible to hold, a license in Iowa.

13.16(2) *Validity.* A substitute license is valid for five years and for not more than 90 days of teaching in one assignment during any one school year. A school district administrator may file a written request with the board for an extension of the 90-day limit in one assignment on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

13.16(3) *Authorization.* The holder of a substitute license is authorized to substitute teach in any school system in any position in which a regularly licensed teacher is employed except in the driver's education classroom. In addition to the authority inherent in the initial, standard, master educator, professional administrator, regional exchange, full career and technical education authorization, full native language teaching authorization, professional service license, and permanent professional licenses and the endorsement(s) held, the holder of one of these regular licenses may substitute on the same basis as the holder of a substitute license while the regular license is in effect. The executive director may grant permission for a substitute to serve outside of a substitute's regular authority under unique circumstances.

[ARC 9205B, IAB 11/3/10, effective 12/8/10; ARC 9206B, IAB 11/3/10, effective 12/8/10; ARC 0605C, IAB 2/20/13, effective 3/27/13; ARC 1324C, IAB 2/19/14, effective 3/26/14; ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 5303C, IAB 12/2/20, effective 1/6/21; ARC 5321C, IAB 12/16/20, effective 1/20/21; see Delay note at end of chapter]

282—13.17(272) Specific requirements for exchange licenses.

13.17(1) *Teacher exchange license.*

a. For an applicant applying under 13.5(2), a two-year nonrenewable exchange license may be issued to the applicant under any of the following conditions:

(1) The applicant has met the minimum coursework requirements for licensure but has some coursework deficiencies. Any coursework deficiencies must be completed for college credit, with the exception of human relations which may be taken for licensure renewal credit through an approved provider.

(2) The applicant submits verification that the applicant has applied for and will receive the applicant's first teaching license and is waiting for the processing or printing of a valid and current out-of-state license. The lack of a valid and current out-of-state license will be listed as a deficiency.

(3) The applicant has not met the requirement for recency set forth in 13.5(2) "b"(4).

b. After the term of the exchange license has expired, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.

13.17(2) *International teacher exchange license.*

a. A nonrenewable international exchange license may be issued to an applicant under the following conditions:

- (1) The applicant has completed a teacher education program in another country; and
- (2) The applicant is a participant in a teacher exchange program administered through the Iowa department of education, the U.S. Department of Education, or the U.S. Department of State.

b. Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application and the credential evaluation report.

c. This license shall not exceed one year unless the applicant can verify continued participation in the exchange program beyond one year.

d. After the term of the exchange license has expired, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.

13.17(3) Military exchange license.

a. *Definitions.*

“*Military service*” means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

“*Veteran*” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

b. *Spouses of active duty military service members applying under 13.5(2).* A three-year nonrenewable military exchange license may be issued to the applicant under the following conditions:

(1) The applicant has completed a baccalaureate degree and a traditional state-approved teacher preparation program.

(2) The applicant is the holder of a valid and current or an expired teaching license from another state.

(3) The applicant provides verification of the applicant’s connection to or the applicant’s spouse’s connection to the military by providing a copy of current military orders with either a marriage license or a copy of a military ID card for the applicant’s spouse.

(4) This license may be converted to a one-year regional exchange license upon application and payment of fees.

c. *Veterans or their spouses applying under 13.5(2).* A three-year military exchange license may be issued to an applicant who meets the requirements of 13.17(3) “b”(1) and (2). A veteran must provide a copy of the veteran’s DD 214. A spouse must provide a copy of the veteran spouse’s DD 214 and the couple’s marriage license.

d. *Spouses of active duty military service veterans, or veterans’ spouses applying under 13.5(2).* If the applicant has completed a nontraditional teacher preparation program but is not eligible for a teaching license, the applicant will be issued a substitute license, and the initial review for the portfolio review process will be completed by board staff. An applicant must provide verification of connection to the military outlined in 13.17(3) “b”(3) or 13.17(3) “c.”

e. *Military education, training, and service credit.* An applicant for the military exchange license may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting documentation to the board of educational examiners. The applicant shall identify the experience or educational requirement to which the credit would be applied if granted. The board of educational examiners shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational requirement for licensure.

[ARC 8138B, IAB 9/9/09, effective 10/14/09; ARC 8604B, IAB 3/10/10, effective 4/14/10; ARC 9072B, IAB 9/8/10, effective 10/13/10; ARC 9840B, IAB 11/2/11, effective 12/7/11; ARC 0563C, IAB 1/23/13, effective 1/1/13; ARC 0868C, IAB 7/24/13, effective 8/28/13; ARC 1166C, IAB 11/13/13, effective 12/18/13; ARC 1323C, IAB 2/19/14, effective 3/26/14; ARC 1454C, IAB 5/14/14, effective 6/18/14; ARC 1878C, IAB 2/18/15, effective 3/25/15; ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 3196C, IAB 7/5/17, effective 8/9/17; ARC 5304C, IAB 12/2/20, effective 1/6/21; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—13.18(272) General requirements for an original teaching subject area endorsement. Rescinded ARC 2016C, IAB 6/10/15, effective 7/15/15.

282—13.19(272) NCATE-accredited programs. Rescinded IAB 6/17/09, effective 7/22/09.

282—13.20(272) Permanent professional certificates. Effective October 1, 1988, the permanent professional certificate will no longer be issued. Any permanent professional certificate issued prior to October 1, 1988, will continue in force with the endorsements and approvals appearing thereon, unless revoked or suspended for cause. If a permanent professional certificate is revoked and if the holder is able at a later date to overcome or remediate the reasons for the revocation, the holder may apply for the appropriate new class of license set forth in this chapter.

[ARC 3633C, IAB 2/14/18, effective 3/21/18]

282—13.21(272) Human relations requirements for practitioner licensure. Rescinded ARC 2016C, IAB 6/10/15, effective 7/15/15.

282—13.22(272) Development of human relations components. Rescinded ARC 2016C, IAB 6/10/15, effective 7/15/15.

282—13.23 to 13.25 Reserved.

282—13.26(272) Requirements for elementary endorsements.

13.26(1) Teacher—prekindergarten-kindergarten.

a. Authorization. The holder of this endorsement is authorized to teach at the prekindergarten-kindergarten level. Applicants for this endorsement must also hold the teacher—elementary classroom endorsement set forth in subrule 13.26(4) or the early childhood special education endorsement set forth in 282—subrule 14.2(1).

b. Content. Coursework must total a minimum of 18 semester hours and shall include the following:

(1) Child development and learning to include young children's characteristics and needs, with an emphasis on cognitive, language, physical, social, and emotional development, both typical and atypical, the multiple interacting influences on early development, and the creation of environments that are healthy, respectful, supportive, and challenging for each and every child.

(2) Building family and community relationships to include understanding that successful early childhood education depends upon reciprocal and respectful partnerships with families, communities, and agencies, that these partnerships have complex and diverse characteristics, and that all families should be involved in their children's development and learning.

(3) Assessment in early childhood to include child observation, documentation, and data collection, the development of appropriate goals, the benefits and uses of assessment for curriculum and instructional strategies, the use of technology when appropriate for assessment and adaptations, and building assessment partnerships with families to positively influence the development of each child.

(4) Developmentally effective approaches to include understanding how positive relationships and supportive interactions are the foundation of working with young children and families; knowing and understanding a wide array of developmentally appropriate approaches, including play and creativity, instructional strategies, and tools to connect with children and families; and reflecting on the teacher's own practice to promote positive outcomes for each child.

(5) Content knowledge to build a meaningful curriculum through the use of academic disciplines, including language and literacy, the arts (music, drama, dance, and visual arts), mathematics, science, social studies, physical activity, and health, for designing, implementing, and evaluating inquiry-based experiences that promote positive development and learning for each child.

(6) Collaboration and professionalism to include involvement in the early childhood field, knowledge about ethical and early childhood professional standards, engagement in continuous collaborative learning to inform practice, reflective and critical perspectives on early childhood education, and informed advocacy for young children and the profession.

(7) Field experiences and opportunities to observe and practice in a variety of early childhood settings, which include, at a minimum, 40 hours of observation and practice in a variety of preschool

settings such as urban, rural, socioeconomic status, cultural diversity, program types, and program sponsorship.

(8) Historical, philosophical, and social foundations of early childhood education.

(9) Student teaching in a prekindergarten setting as required in rule 281—79.14(256).

13.26(2) Teacher—birth through grade three, inclusive settings.

a. Authorization. The holder of this endorsement is authorized to teach children from birth through grade three in inclusive settings.

b. Content.

(1) Promoting child development and learning and individual learning differences.

1. Understand the nature of child growth and development for infants and toddlers (birth through age 2), preprimary (age 3 through age 5) and primary school children (age 6 through age 8), both typical and atypical, in areas of cognition, language development, physical motor, social-emotional, mental health, aesthetics, and adaptive behavior and how these impact development and learning in the first years of life, including the etiology, characteristics, and classifications of common disabilities in infants and young children and specific implications for development and learning.

2. Recognize that children are best understood in the contexts of family, culture and society and that cultural and linguistic diversity, stress, risk factors, biological and environmental factors, family strengths, and trauma influence development and learning at all stages, including pre-, peri-, and postnatal development and learning. Communicate the importance of responsive care to a child's development of identity and sense of self.

3. Use developmental knowledge to create learning environments and classroom procedures that promote positive social interaction, active engagement, high expectations for learning, mutual respect, and self-regulation through individually appropriate expectations and positive guidance techniques for each child to meet the child's optimum potential regardless of proficiency. Implement and evaluate preventative and reductive strategies to address challenging behaviors. Use motivational and instructional interventions to teach individuals with exceptionalities how to adapt to different environments. Know how to intervene safely and appropriately with individuals in crisis.

4. Use both child-initiated and teacher-facilitated instructional methods, including strategies such as small and large group projects, play, systematic instruction, group discussion and cooperative decision making. Organize space, time, materials, peers, and adults to maximize progress in natural and structured environments. Embed learning opportunities in everyday routines, relationships, activities, and places. Understand the impact of social and physical environments on development and learning.

5. Engage in intentional practices and implement learning experiences that value diversity and demonstrate understanding that bias and discrimination impact development. Understand how language, culture, and family background influence and support the learning of each child.

(2) Building family and community relationships.

1. Build family and community relationships to include understanding that successful early childhood education depends upon reciprocal and respectful partnerships with families, communities, and agencies, that these partnerships have complex and diverse characteristics, and that all families should be involved in their children's development and learning.

2. Understand diverse family and community characteristics and how language, culture, and family background influence and support children's learning, and apply that knowledge to develop, implement, and evaluate learning experience and strategies that respect and reflect the diversity of children and their families.

3. Understand how to apply theories and knowledge of dynamic roles and relationships within and between families, schools, and communities. Recognize how to adapt consistently to the expressed and observed strengths and needs of the family, including two-way communication, and how to support families' choices and priorities in the development of goals and intervention strategies.

4. Understand how to coordinate with all (caregivers, professionals, and agencies) who provide care and learning opportunities for each child by developing a community of support for children and families through interagency collaboration to include agreements, referrals, and consultation.

(3) Observing, documenting, and assessing to support young children and families.

1. Use technically sound formal and informal assessments that minimize bias and evaluation results to adapt and guide instruction. Demonstrate a range of appropriate assessment and evaluation strategies (e.g., family interview, observation, documentation, assessment instrument) to support individual strengths, interests, and needs.

2. Design curricula, assessments, and teaching and intervention strategies that align with learner and program goals, including the development of individualized family service plans (IFSPs) and individualized education plans (IEPs). Assist families in identifying resources, priorities, and concerns in relation to the child's development. Understand and utilize assessment partnerships with families and with professional colleagues to build effective learning environments. Understand the role of the families in the assessment process and support the choices they make (e.g., observer, participant). Participate as a team member to integrate assessment results in the development and implementation of individualized plans.

3. Understand and utilize observation, documentation, and other appropriate assessment tools and approaches, including the use of technology in documentation, assessment and data collection. Implement authentic assessment based on observation of spontaneous play. Demonstrate knowledge of alignment of assessment with curriculum, content standards, and local, state, and federal requirements. Assess progress in the developmental domains, play, and temperament.

4. Understand and utilize responsible assessments to promote positive outcomes for each child, including the use of assistive technology for children with disabilities. Use a variety of materials and contexts to maintain the interest of infants and young children in the assessment process.

5. Implement current educational, legal, and ethical guidelines when using assessment practices to support children's individual strengths, interests, and needs (e.g., cultural, linguistic, ability diversity).

- (4) Using developmentally and individually effective approaches to connect with children and families.

1. Understand positive relationships and supportive interactions as the foundation of the teacher's work with young children. Reflect on the teacher's own practice to promote positive outcomes for each child and family.

2. Develop, implement, and evaluate individualized plans, including IFSPs and IEPs, as a team leader with families and other professionals. Demonstrate appropriate and effective supports for children and families transitioning into and out of programs or classrooms. Seek and use additional resources and agencies outside the program/school when needed to effectively facilitate the learning and social/emotional development of each child.

3. Plan, develop, implement, and evaluate integrated learning experiences for home-, center- and school-based environments for infants, toddlers, preprimary and primary children, their families, and other care providers based on knowledge of individual children, the family, and the community. Select, develop, and evaluate developmentally and functionally appropriate materials, equipment, and environments. Develop adaptations and accommodations for infants, toddlers, preprimary, and primary children to meet their individual needs. Use a broad repertoire of developmentally and individually appropriate teaching/learning approaches and effective strategies and tools for early education, including appropriate uses of technology. Facilitate child-initiated development and learning.

4. Consider an individual's abilities, interests, learning environments, and cultural and linguistic factors in the selection, development, and adaptation of learning experiences for individuals with exceptionalities. Use teacher-scaffolded and -initiated instruction to complement child-initiated learning. Link development, learning experiences, and instruction to promote educational transitions. Use individual and group guidance and problem-solving techniques to develop supportive relationships with and among children. Use strategies to teach social skills and conflict resolution.

5. Implement basic health, nutrition, and safety management procedures, including the design of physically and psychologically safe and healthy indoor and outdoor environments to promote development and learning. Recognize signs of emotional distress, physical and mental abuse and neglect in young children and understand mandatory reporting procedures. Demonstrate proficiency in infant-child cardiopulmonary resuscitation, emergency procedures and first aid.

6. Understand principles of administration, organization, and operation of programs for children from birth to age 8 and their families, including staff and program development, supervision, evaluation of staff, and continuing improvement of programs and services. Employ adult learning principles in consulting with and training family members and service providers.

7. Demonstrate the ability to collaborate with general educators and other colleagues to create safe, inclusive, culturally responsive learning environments to engage individuals with exceptionalities and diverse abilities in meaningful learning activities and social interactions.

(5) Using content knowledge to build a meaningful curriculum.

1. Develop and implement appropriate current research-supported learning experiences with a focus on the developmental domains, play, temperament, language and literacy to include first (home) and second language acquisition, mathematics, science, the arts (music, visual art, and drama), physical activity, health and safety, social studies, social skills, higher-thinking skills, and developmentally and individually appropriate methodology. Methods courses are required for the following areas: literacy, mathematics, social studies, science, physical education and wellness, and visual and performing arts.

2. Use the Iowa Early Learning Standards and the Iowa core with information from ongoing child observations and assessments to plan, implement, and evaluate appropriate instruction that improves academic and developmental progress of each child, including those with IFSPs/IEPs.

3. Understand the central concepts, structures of the discipline, and tools of inquiry of content areas taught, and demonstrate the ability to organize this knowledge, integrate cross-disciplinary skills, and develop meaningful learning progressions for individuals with exceptionalities (diverse abilities).

4. Modify general and specialized curricula to make them accessible to individuals with exceptionalities (diverse abilities). Develop adaptations and accommodations for infants, toddlers, preprimary, and primary children to meet their individual needs.

(6) Professional responsibilities.

1. Demonstrate awareness of early childhood program criteria, including the following: National Association for the Education of Young Children (NAEYC), Iowa Early Learning Standards, Head Start Performance Standards, and Iowa Quality Preschool Program Standards (IQPPS).

2. Collaborate with supervisors, mentors, and colleagues to enhance professional growth within and across disciplines to inform practice, including the use of data for decision making, and understand how to design and implement a professional development plan based on student achievement, self, peer, and supervisory evaluations and recommended practices.

3. Understand the significance of lifelong learning and participate in professional activities and learning communities. Participate in activities of professional organizations relevant to early childhood regular education, special education, and early intervention.

4. Use relevant national and state professional guidelines (national, state, or local), state curriculum standards, and current trends for content and outcomes and to inform and improve practices for young children and their families.

5. Adhere to state and national professional and ethical principles, practices, and codes.

6. Advocate for developmentally and individually appropriate practice, demonstrate awareness of issues that affect the lives of each child, and demonstrate necessary communication skills.

7. Understand historical, philosophical and foundational knowledge and how current issues and the legal bases of services influence professional practice in early childhood, early intervention, early childhood special education, and general and regular education in the K-3 age groups. Understand trends and issues in early childhood education, early childhood special education, and early intervention.

8. Provide guidance and direction to paraeducators, tutors, and volunteers.

(7) Early childhood field experiences.

1. Pre-student teaching field experiences, which must comprise a minimum of 100 clock hours, to include at least 20 hours of working with each age group (infants and toddlers, preprimary, and primary).

2. Experiences working in at least three settings that offer early childhood education, such as approved child care centers and registered child development homes, school-based preschool, community agencies, or home visiting programs.

3. Experiences working with children who have a range of abilities and disabilities and who reflect diverse family systems and other differentiating factors, such as urban and rural, socioeconomic status, and cultural and linguistic diversity.

4. Completion of supervised student teaching experience in at least two different settings including registered child development homes, home visiting programs, state-accredited child care centers, or classrooms which include both children with and without disabilities in two of three age levels: infant and toddler, preprimary, and primary.

13.26(3) *Teacher—prekindergarten through grade three, including special education.* Rescinded IAB 7/5/17, effective 8/9/17.

13.26(4) *Teacher—elementary classroom.*

a. *Authorization.* The holder of this endorsement is authorized to teach in kindergarten and grades one through six.

b. *Content.*

(1) Child growth and development with emphasis on the emotional, physical and mental characteristics of elementary age children, unless completed as part of the professional education core.

(2) At least 9 semester hours in literacy development, which must include:

1. Content:

- Oral and written communication development; and linguistics, including phonology and phonological awareness, sound-symbol association, syllable types, morphology, syntax and semantics, and the relationship of these components to typical and atypical reading development and reading instruction;

- Phonemic awareness;

- Word identification, including phonics and orthography;

- Fluency;

- Vocabulary;

- Comprehension;

- Writing mechanics;

- Writing conventions;

- Writing process;

- Children's literature.

2. Methods:

- Assessment, diagnosis and evaluation of student learning in literacy, including the knowledge of the signs and symptoms of dyslexia and other reading difficulties;

- Integration of the language arts (to include reading, writing, speaking, viewing, and listening);

- Integration of technology in teaching and student learning in literacy;

- Current best-practice, research-based strategies and instructional technology for designing and delivering effective instruction, including appropriate interventions, groupings, remediation, assistive technology, and classroom accommodations for all students including students with dyslexia and other difficulties;

- Classroom management as it applies to literacy methods;

- Pre-student teaching clinical experience in teaching literacy.

(3) At least 9 semester hours in mathematics which must include:

1. Content:

- Numbers and operations;

- Algebra/number patterns;

- Geometry;

- Measurement;

- Data analysis/probability.

2. Methods:

- Assessment, diagnosis and evaluation of student learning in mathematics;

- Current best-practice, research-based instructional methods in mathematical processes (to include problem solving; reasoning; communication; the ability to recognize, make and apply

connections; integration of manipulatives; the ability to construct and to apply multiple connected representations; and the application of content to real world experiences);

- Integration of technology in teaching and student learning in mathematics;
- Classroom management as it applies to mathematics methods;
- Pre-student teaching clinical experience in teaching mathematics.

(4) At least 9 semester hours in social sciences which must include:

1. Content:

- History;
- Geography;
- Political science/civic literacy;
- Economics;
- Behavioral sciences.

2. Methods:

- Current best-practice, research-based approaches to the teaching and learning of social sciences;
- Integration of technology in teaching and student learning in social sciences;
- Classroom management as it applies to social science methods.

(5) At least 9 semester hours in science which must include:

1. Content:

- Physical science;
- Earth/space science;
- Life science.

2. Methods:

• Current best-practice, research-based methods of inquiry-based teaching and learning of science;

- Integration of technology in teaching and student learning in science;
- Classroom management as it applies to science methods.

(6) At least 3 semester hours to include all of the following:

1. Methods of teaching elementary physical education, health, and wellness;
2. Methods of teaching visual arts for the elementary classroom;
3. Methods of teaching performance arts for the elementary classroom.

(7) Pre-student teaching field experience in at least two different grade levels to include one primary and one intermediate placement.

(8) A field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours.

(9) Student teaching in an elementary general education classroom.

[ARC 8400B, IAB 12/16/09, effective 1/20/10; ARC 8401B, IAB 12/16/09, effective 1/20/10; ARC 8402B, IAB 12/16/09, effective 1/20/10; ARC 8607B, IAB 3/10/10, effective 4/14/10; ARC 0446C, IAB 11/14/12, effective 12/19/12; ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 2527C, IAB 5/11/16, effective 6/15/16; ARC 2584C, IAB 6/22/16, effective 7/27/16; ARC 3197C, IAB 7/5/17, effective 8/9/17]

282—13.27(272) Requirements for middle school endorsements.

13.27(1) Authorization. The holder of this endorsement is authorized to teach in the two concentration areas in which the specific requirements have been completed as well as in other subject areas in grades five through eight which are not the core content areas. The holder is not authorized to teach art, industrial arts, music, reading, physical education, talented and gifted, English as a second language, and special education.

13.27(2) Program requirements.

a. Be the holder of a currently valid Iowa teacher's license with either the general elementary endorsement or one of the subject matter secondary level endorsements set out in rule 282—13.28(272).

b. A minimum of 9 semester hours of required coursework in the following:

(1) Coursework in the growth and development of the middle school age child, specifically addressing the social, emotional, physical and cognitive characteristics and needs of middle school age children in addition to related studies completed as part of the professional education core.

(2) Coursework in middle school design, curriculum, instruction, and assessment including, but not limited to, interdisciplinary instruction, teaming, and differentiated instruction in addition to related studies completed as part of the professional education core.

(3) Coursework to prepare middle school teachers in literacy (reading, writing, listening and speaking) strategies for students in grades five through eight and in methods to include these strategies throughout the curriculum.

c. Thirty hours of middle school field experiences included in the coursework requirements listed in 13.27(2)“b”(1) to (3).

13.27(3) Concentration areas. To obtain this endorsement, the applicant must complete the coursework requirements in two of the following content areas:

a. *Social studies concentration.* The social studies concentration requires 12 semester hours of coursework in social studies to include coursework in United States history, world history, government and geography.

b. *Mathematics concentration.* The mathematics concentration requires 12 semester hours in mathematics to include coursework in algebra.

c. *Science concentration.* The science concentration requires 12 semester hours in science to include coursework in life science, earth science, and physical science.

d. *Language arts concentration.* The language arts concentration requires 12 semester hours in language arts to include coursework in composition, language usage, speech, young adult literature, and literature across cultures.

[ARC 2016C, IAB 6/10/15, effective 7/15/15]

282—13.28(272) Minimum content requirements for teaching endorsements.

13.28(1) Agriculture. 5-12. Completion of 24 semester credit hours in agriculture and agriculture education to include:

- a. Foundations of vocational and career education.
- b. Planning and implementing courses and curriculum.
- c. Methods and techniques of instruction to include evaluation of programs and students.
- d. Coordination of cooperative education programs.
- e. Coursework in each of the following areas and at least three semester credit hours in five of the following areas:

- (1) Agribusiness systems.
- (2) Power, structural, and technical systems.
- (3) Plant systems.
- (4) Animal systems.
- (5) Natural resources systems.
- (6) Environmental service systems.
- (7) Food products and processing systems.

13.28(2) Art. K-8 or 5-12. Completion of 24 semester hours in art to include coursework in art history, studio art, and two- and three-dimensional art.

13.28(3) Business—all. 5-12. Completion of 30 semester hours in business to include 6 semester hours in accounting, 3 semester hours in business law to include contract law, 3 semester hours in computer and technical applications in business, 6 semester hours in marketing to include consumer studies, 3 semester hours in management, 6 semester hours in economics, and 3 semester hours in business communications to include formatting, language usage, and oral presentation. Coursework in entrepreneurship and in financial literacy may be a part of, or in addition to, the coursework listed above.

13.28(4) Driver education. 5-12. Completion of 9 semester hours in driver education to include coursework in accident prevention that includes drug and alcohol abuse; vehicle safety; and behind-the-wheel driving.

13.28(5) English/language arts.

a. K-8. Completion of 24 semester hours in English and language arts to include coursework in oral communication, written communication, language development, reading, children's literature, creative drama or oral interpretation of literature, and American literature.

b. 5-12. Completion of 24 semester hours in English to include coursework in oral communication, written communication, language development, reading, American literature, English literature and adolescent literature.

13.28(6) Language arts. 5-12. Completion of 40 semester hours in language arts to include coursework in the following areas:

a. *Written communication.*

(1) Develops a wide range of strategies and appropriately uses writing process elements (e.g., brainstorming, free-writing, first draft, group response, continued drafting, editing, and self-reflection) to communicate with different audiences for a variety of purposes.

(2) Develops knowledge of language structure (e.g., grammar), language conventions (e.g., spelling and punctuation), media techniques, figurative language and genre to create, critique, and discuss print and nonprint texts.

b. *Oral communication.*

(1) Understands oral language, listening, and nonverbal communication skills; knows how to analyze communication interactions; and applies related knowledge and skills to teach students to become competent communicators in varied contexts.

(2) Understands the communication process and related theories, knows the purpose and function of communication and understands how to apply this knowledge to teach students to make appropriate and effective choices as senders and receivers of messages in varied contexts.

c. *Language development.*

(1) Understands inclusive and appropriate language, patterns and dialects across cultures, ethnic groups, geographic regions and social roles.

(2) Develops strategies to improve competency in the English language arts and understanding of content across the curriculum for students whose first language is not English.

d. *Young adult literature, American literature, and world literature.*

(1) Reads, comprehends, and analyzes a wide range of texts to build an understanding of self as well as the cultures of the United States and the world in order to acquire new information, to respond to the needs and demands of society and the workplace, and for personal fulfillment. Among these texts are fiction and nonfiction, graphic novels, classic and contemporary works, young adult literature, and nonprint texts.

(2) Reads a wide range of literature from many periods in many genres to build an understanding of the many dimensions (e.g., philosophical, ethical, aesthetic) of human experience.

(3) Applies a wide range of strategies to comprehend, interpret, evaluate, and appreciate texts. Draws on prior experience, interactions with other readers and writers, knowledge of word meaning and of other texts, word identification strategies, and an understanding of textual features (e.g., sound-letter correspondence, sentence structure, context, graphics).

(4) Participates as a knowledgeable, reflective, creative, and critical member of a variety of literacy communities.

e. *Creative voice.*

(1) Understands the art of oral interpretation and how to provide opportunities for students to develop and apply oral interpretation skills in individual and group performances for a variety of audiences, purposes and occasions.

(2) Understands the basic skills of theatre production including acting, stage movement, and basic stage design.

f. *Argumentation/debate.*

(1) Understands concepts and principles of classical and contemporary rhetoric and is able to plan, prepare, organize, deliver and evaluate speeches and presentations.

(2) Understands argumentation and debate and how to provide students with opportunities to apply skills and strategies for argumentation and debate in a variety of formats and contexts.

g. Journalism.

(1) Understands ethical standards and major legal issues including First Amendment rights and responsibilities relevant to varied communication content. Utilizes strategies to teach students about the importance of freedom of speech in a democratic society and the rights and responsibilities of communicators.

(2) Understands the writing process as it relates to journalism (e.g., brainstorming, questioning, reporting, gathering and synthesizing information, writing, editing, and evaluating the final media product).

(3) Understands a variety of forms of journalistic writing (e.g., news, sports, features, opinion, Web-based) and the appropriate styles (e.g., Associated Press, multiple sources with attribution, punctuation) and additional forms unique to journalism (e.g., headlines, cutlines, and/or visual presentations).

h. Mass media production.

(1) Understands the role of the media in a democracy and the importance of preserving that role.

(2) Understands how to interpret and analyze various types of mass media messages in order for students to become critical consumers.

(3) Develops the technological skills needed to package media products effectively using various forms of journalistic design with a range of visual and auditory methods.

i. Reading strategies (if not completed as part of the professional education core requirements).

(1) Uses a variety of skills and strategies to comprehend and interpret complex fiction, nonfiction and informational text.

(2) Reads for a variety of purposes and across content areas.

13.28(7) World language. K-8 and 5-12. Completion of 24 semester hours in each world language for which endorsement is sought.

13.28(8) Health. K-8 and 5-12. Completion of 24 semester hours in health to include coursework in public or community health, personal wellness, substance abuse, family life education, mental/emotional health, and human nutrition. A current certificate of CPR training is required in addition to the coursework requirements.

For holders of physical education or family and consumer science endorsements, completion of 18 credit hours in health to include coursework in public or community health, personal wellness, substance abuse, family life education, mental/emotional health, and human nutrition. A current certificate of CPR training is required in addition to the coursework requirements.

13.28(9) Family and consumer sciences—general. 5-12. Completion of 24 semester hours in family and consumer sciences to include coursework in lifespan development, parenting and child development education, family studies, consumer resource management, textiles or apparel design and merchandising, housing, foods and nutrition, and foundations of career and technical education as related to family and consumer sciences.

13.28(10) Industrial technology. 5-12. Completion of 24 semester hours in industrial technology to include coursework in manufacturing, construction, energy and power, graphic communications and transportation. The coursework is to include at least 6 semester hours in three different areas.

13.28(11) Journalism. 5-12. Completion of 15 semester hours in journalism to include coursework in writing, editing, production and visual communications.

13.28(12) Mathematics.

a. K-8. Completion of 24 semester hours in mathematics to include coursework in algebra, geometry, number theory, measurement, computer programming, and probability and statistics.

b. 5-12.

(1) Completion of 24 semester hours in mathematics to include a linear algebra or an abstract (modern) algebra course, a geometry course, a two-course sequence in calculus, a computer programming course, a probability and statistics course, and coursework in discrete mathematics.

(2) For holders of the physics 5-12 endorsement, completion of 17 semester hours in mathematics to include a geometry course, a two-course sequence in calculus, a probability and statistics course, and coursework in discrete mathematics.

(3) For holders of the all science 9-12 endorsement, completion of 17 semester hours in mathematics to include a geometry course, a two-course sequence in calculus, a probability and statistics course, and coursework in discrete mathematics.

c. 5-8 algebra for high school credit. For a 5-8 algebra for high school credit endorsement, hold a K-8 mathematics, middle school mathematics, K-8 STEM, or 5-8 STEM endorsement and complete a college algebra or linear algebra class. This endorsement allows the holder to teach algebra to grades 5-8 for high school credit.

13.28(13) Music.

a. K-8. Completion of 24 semester hours in music to include coursework in music theory (at least two courses), music history, and applied music, and a methods course in each of the following: general, choral, and instrumental music.

b. 5-12. Completion of 24 semester hours in music to include coursework in music theory (at least two courses), music history (at least two courses), applied music, and conducting, and a methods course in each of the following: general, choral, and instrumental music.

13.28(14) Physical education.

a. K-8. Completion of 24 semester hours in physical education to include coursework in human anatomy, human physiology, movement education, adaptive physical education, personal wellness, human growth and development of children related to physical education, and first aid and emergency care. A current certificate of CPR training is required in addition to the coursework requirements.

b. 5-12. Completion of 24 semester hours in physical education to include coursework in human anatomy, kinesiology, human physiology, human growth and development related to maturational and motor learning, adaptive physical education, curriculum and administration of physical education, personal wellness, and first aid and emergency care. A current certificate of CPR training is required in addition to the coursework requirements.

13.28(15) Reading. K-8 and 5-12. Completion of 24 semester hours in reading to include all of the following requirements:

a. Foundations of reading. This requirement includes the following competencies:

(1) The practitioner demonstrates knowledge of the psychological, sociocultural, motivational, and linguistic foundations of reading and writing processes and instruction.

(2) The practitioner demonstrates knowledge of a range of research pertaining to reading, writing, and learning, including the analysis of scientifically based reading research, and knowledge of histories of reading. The range of research encompasses research traditions from the fields of the social sciences and other paradigms appropriate for informing practice and also definitions of reading difficulties including but not limited to dyslexia.

(3) The practitioner demonstrates knowledge of the major components of reading, such as comprehension, vocabulary, word identification, fluency, phonics, and phonemic awareness, and effectively integrates curricular standards with student interests, motivation, and background knowledge.

b. Reading curriculum and instruction. This requirement includes the following competencies:

(1) The practitioner demonstrates knowledge of designing and implementing an integrated, comprehensive, and balanced curriculum that addresses the major components of reading and contains a wide range of texts, including but not limited to narrative, expository, and poetry, and including traditional print, digital, and online resources.

(2) The practitioner uses knowledge of a range of research-based strategies and instructional technology for designing and delivering effective instruction, including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia and other difficulties.

(3) The practitioner demonstrates knowledge of grouping students, selecting materials appropriate for learners with diverse abilities at various stages of reading and writing development, differentiating instruction to meet the unique needs of all learners, including students with dyslexia, offering sufficient opportunities for students to practice reading skills, and providing frequent and specific instructional feedback to guide students' learning.

(4) The practitioner demonstrates knowledge of designing instruction to meet the needs of diverse populations, including populations in urban, suburban, and rural settings, as well as for students from various cultural and linguistic backgrounds.

(5) The practitioner demonstrates knowledge of creating a literate physical environment which is low risk, supports students as agents of their own learning, and supports a positive socio-emotional impact for students to identify as readers.

c. Reading assessment, diagnosis and evaluation. This requirement includes the following competencies:

(1) The practitioner understands types of reading and writing assessments and their purposes, strengths, and limitations.

(2) The practitioner demonstrates knowledge of selecting and developing appropriate assessment instruments, procedures, and practices that range from individual to group and from formal to informal to alternative for the identification, screening, and diagnosis of all students' reading proficiencies and needs including knowledge of the signs and symptoms of dyslexia and other reading difficulties.

(3) The practitioner demonstrates knowledge of assessment data analysis to inform, plan, measure, progress monitor, and revise instruction for all students and to communicate the outcomes of ongoing assessments to all stakeholders.

(4) The practitioner demonstrates awareness of policies and procedures related to special programs, including Title I.

d. Reading in the content areas. This requirement includes the following competencies:

(1) The practitioner demonstrates knowledge of morphology and the etymology of words, along with text structure and the dimensions of content area vocabulary and comprehension, including literal, interpretive, critical, and evaluative.

(2) The practitioner demonstrates an understanding of reading theory, reading knowledge, and a variety of research-based strategies and approaches to provide effective literacy instruction into content areas.

(3) The practitioner demonstrates knowledge of integrating literacy instruction into content areas for all students, including but not limited to students with disabilities, students who are at risk of academic failure, students who have been identified as gifted and talented, students who have limited English language proficiency, and students with dyslexia, whether or not such students have been identified as children requiring special education under Iowa Code chapter 256B.

e. Language development. This requirement includes the following competency: The practitioner uses knowledge of oral language development, linguistics including phonology and phonological awareness, sound-symbol association, syllable types, morphology, syntax and semantics and the relationship of these components to typical and atypical reading development and reading instruction, cognitive academic language development, oral and written language proficiency (including second language development), acquisition of reading skills, and the variations related to cultural and linguistic diversity to provide effective instruction in reading and writing.

f. Oral communication instruction. This requirement includes the following competencies:

(1) The practitioner has knowledge of the unique needs and backgrounds of students with language differences and delays.

(2) The practitioner uses effective strategies for facilitating the learning of language for academic purposes by all learners.

g. Written communication instruction. This requirement includes the following competency: The practitioner uses knowledge of reading-writing-speaking connections; the writing process to include structures of language and grammar; the stages of spelling development; the different types of writing, such as narrative, expressive, persuasive, informational, and descriptive; and the connections between oral and written language development to effectively teach writing as communication.

h. Children's fiction and nonfiction (K-8 only) or adolescent or young adult fiction and nonfiction (5-12 only). This requirement includes the following competency: The practitioner uses knowledge of children's literature (K-8) or adolescent or young adult literature (5-12) for:

(1) Modeling the reading and writing of varied genres, including fiction and nonfiction; technology- and media-based information; and nonprint materials;

(2) Motivating through the use of texts at multiple levels, representing broad interests, and reflecting varied cultures, linguistic backgrounds, and perspectives; and

(3) Matching text complexities to the proficiencies and needs of readers.

i. *Practicum.* This requirement includes the following competencies:

(1) The practitioner works with appropriately licensed professionals who observe, evaluate, and provide feedback on the practitioner's knowledge, dispositions, and performance of the teaching of reading and writing.

(2) The practitioner effectively uses reading and writing strategies, materials, and assessments based upon appropriate reading and writing research and works with colleagues and families in the support of children's reading and writing development.

13.28(16) Reading specialist. K-12. The applicant must have met the requirements for the standard license and a K-8 or 5-12 reading endorsement and must present evidence of at least three years of experience which included the teaching of reading as a significant part of the responsibility.

a. *Authorization.* The holder of this endorsement is authorized to serve as a reading specialist in kindergarten and grades one through twelve.

b. *Program requirements.* Degree—master's.

c. *Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least 24 semester hours to include the following:

(1) Foundations of reading. The reading specialist will understand the historical, theoretical, and evidence-based foundations of reading and writing processes and instruction and will be able to interpret these findings to model exemplary instructional methods for students with typical and atypical literacy development and effectively develop and lead professional development.

(2) Curriculum and instruction. The reading specialist will use instructional approaches, materials, and an integrated, comprehensive, balanced curriculum to support student learning in reading and writing including the following:

1. Work collaboratively with teachers to develop a literacy curriculum that has vertical and horizontal alignment K-12 and that uses instructional approaches supported by literature and research for the following areas: print, phonemic awareness, phonics, fluency, comprehension, vocabulary, writing, critical thinking, and motivation.

2. Support classroom teachers to implement and adapt in-depth instructional approaches, including but not limited to approaches to improve decoding, comprehension, and information retention, to meet the language-proficiency needs of English language learners and the needs of students with reading difficulties or reading disabilities, including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia and other difficulties within or outside the regular classroom.

3. Demonstrate a knowledge of a wide variety of quality traditional print, digital, and online resources and support classroom teachers in building and using a quality, accessible classroom library and materials collection that meets the specific needs and abilities of all learners.

4. Provide support for curriculum and instruction through modeling, coteaching, observing, planning, reviewing literacy data, and providing resources.

(3) Assessment, diagnosis, and evaluation. The reading specialist will use a variety of assessment tools and practices to plan and evaluate effective reading and writing instruction including the following:

1. Demonstrate an understanding of the literature and research related to assessments and their purposes, including the strengths and limitations of assessments, and assessment tools for screening, diagnosis, progress monitoring, and measuring outcomes; demonstrate an understanding of the signs and symptoms of reading difficulties including but not limited to dyslexia; and also demonstrate an understanding of district and state assessments, proficiency standards and student benchmarks.

2. Select, administer, and interpret assessments for specific purposes, including collaboration with teachers in the analysis of data, and leading schoolwide or districtwide scale analyses to select assessment

tools that provide a systemic framework for assessing reading, writing, and language growth of all students, including those with reading difficulties and reading disabilities including but not limited to students with dyslexia and English language learners.

3. Use assessment information to plan and evaluate instruction, including multiple data sources for analysis and instructional planning, for examining the effectiveness of specific intervention practices and students' responses to interventions including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia and other difficulties, and to plan professional development initiatives.

4. Communicate assessment results and implications to a variety of audiences.

(4) Administration and supervision of reading programs. The reading specialist will:

1. Demonstrate foundational knowledge of adult learning theories and related research about organizational change, professional development, and school culture.

2. Demonstrate the practical application of literacy leadership including planning, developing, supervising, and evaluating literacy programs at all levels.

3. Demonstrate knowledge of supervising an overall reading program, including but not limited to staffing; budgetary practices; planning, preparing, and selecting materials; subsystems; special provisions; and evaluating teacher performance.

4. Participate in, design, facilitate, lead, and evaluate effective and differentiated professional development programs to effectively implement literacy instruction.

5. Demonstrate an understanding of local, state, and national policies that affect reading and writing instruction.

6. Promote effective communication and collaboration among stakeholders, including parents and guardians, teachers, administrators, policymakers, and community members, and advocate for change when necessary to promote effective literacy instruction.

(5) Educational research, measurement and evaluation. The reading specialist will effectively utilize existing research and learn to conduct new research to continuously improve the design and implementation of a comprehensive reading system.

(6) Psychology of language and reading. The reading specialist will understand the highly complex processes by which children learn to speak, read, and write, including language acquisition, linguistics including phonology and phonological awareness, sound-symbol association, syllable types, morphology, syntax and semantics and the relationship of these components to typical and atypical reading development and reading instruction, ranges of individual differences, reading difficulties and reading disabilities, including but not limited to dyslexia, and the importance of the role of diversity in learning to read and write.

(7) Practicum in reading leadership. The reading specialist will participate in elementary and secondary practicum experiences with licensed teachers who are serving in leadership roles in the area of reading.

13.28(17) Science.

a. Science—basic. K-8.

(1) Required coursework. Completion of at least 24 semester hours in science to include 12 hours in physical sciences, 6 hours in biology, and 6 hours in earth/space sciences.

(2) Pedagogy competencies.

1. Understand the nature of scientific inquiry, its central role in science, and how to use the skills and processes of scientific inquiry.

2. Understand the fundamental facts and concepts in major science disciplines.

3. Be able to make conceptual connections within and across science disciplines, as well as to mathematics, technology, and other school subjects.

4. Be able to use scientific understanding when dealing with personal and societal issues.

b. Biological science. 5-12. Completion of 24 semester hours in biological science or 30 semester hours in the broad area of science to include 15 semester hours in biological science.

c. Chemistry. 5-12. Completion of 24 semester hours in chemistry or 30 semester hours in the broad area of science to include 15 semester hours in chemistry.

d. Earth science. 5-12. Completion of 24 semester hours in earth science or 30 semester hours in the broad area of science to include 15 semester hours in earth science.

e. Basic science. 5-12. Completion of 24 semester hours of credit in science to include the following:

(1) Six semester hours of credit in earth and space science to include the following essential concepts and skills:

1. Understand and apply knowledge of energy in the earth system.
2. Understand and apply knowledge of geochemical cycles.

(2) Six semester hours of credit in life science/biological science to include the following essential concepts and skills:

1. Understand and apply knowledge of the cell.
2. Understand and apply knowledge of the molecular basis of heredity.
3. Understand and apply knowledge of the interdependence of organisms.
4. Understand and apply knowledge of matter, energy, and organization in living systems.
5. Understand and apply knowledge of the behavior of organisms.

(3) Six semester hours of credit in physics/physical science to include the following essential concepts and skills:

1. Understand and apply knowledge of the structure of atoms.
2. Understand and apply knowledge of the structure and properties of matter.
3. Understand and apply knowledge of motions and forces.
4. Understand and apply knowledge of interactions of energy and matter.

(4) Six semester hours of credit in chemistry to include the following essential concepts and skills:

1. Understand and apply knowledge of chemical reactions.
2. Be able to design and conduct scientific investigations.

f. Physical science. Rescinded IAB 11/14/12, effective 12/19/12.

g. Physics.

(1) 5-12. Completion of 24 semester hours in physics or 30 semester hours in the broad area of science to include 15 semester hours in physics.

(2) For holders of the mathematics 5-12 endorsement, completion of:

1. 12 credits of physics to include coursework in mechanics, electricity, and magnetism; and
2. A methods class that includes inquiry-based instruction, resource management, and laboratory safety.

(3) For holders of the chemistry 5-12 endorsement, completion of 12 credits of physics to include coursework in mechanics, electricity, and magnetism.

h. All science I. Rescinded IAB 11/14/12, effective 12/19/12.

i. All science. 5-12.

(1) Completion of 36 semester hours of credit in science to include the following:

1. Nine semester hours of credit in earth and space science to include the following essential concepts and skills:

- Understand and apply knowledge of energy in the earth system.
- Understand and apply knowledge of geochemical cycles.
- Understand and apply knowledge of the origin and evolution of the earth system.
- Understand and apply knowledge of the origin and evolution of the universe.

2. Nine semester hours of credit in life science/biological science to include the following essential concepts and skills:

- Understand and apply knowledge of the cell.
- Understand and apply knowledge of the molecular basis of heredity.
- Understand and apply knowledge of the interdependence of organisms.
- Understand and apply knowledge of matter, energy, and organization in living systems.
- Understand and apply knowledge of the behavior of organisms.
- Understand and apply knowledge of biological evolution.

3. Nine semester hours of credit in physics/physical science to include the following essential concepts and skills:

- Understand and apply knowledge of the structure of atoms.
- Understand and apply knowledge of the structure and properties of matter.
- Understand and apply knowledge of motions and forces.
- Understand and apply knowledge of interactions of energy and matter.
- Understand and apply knowledge of conservation of energy and increase in disorder.

4. Nine semester hours of credit in chemistry to include the following essential concepts and skills:

- Understand and apply knowledge of chemical reactions.
- Be able to design and conduct scientific investigations.

(2) Pedagogy competencies.

1. Understand the nature of scientific inquiry, its central role in science, and how to use the skills and processes of scientific inquiry.

2. Understand the fundamental facts and concepts in major science disciplines.

3. Be able to make conceptual connections within and across science disciplines, as well as to mathematics, technology, and other school subjects.

4. Be able to use scientific understanding when dealing with personal and societal issues.

13.28(18) Social sciences.

a. *American government.* 5-12. Completion of 24 semester hours in American government or 30 semester hours in the broad area of social sciences to include 15 semester hours in American government.

b. *American history.* 5-12. Completion of 24 semester hours in American history or 30 semester hours in the broad area of social sciences to include 15 semester hours in American history.

c. *Anthropology.* 5-12. Completion of 24 semester hours in anthropology or 30 semester hours in the broad area of social sciences to include 15 semester hours in anthropology.

d. *Economics.* 5-12. Completion of 24 semester hours in economics or 30 semester hours in the broad area of social sciences to include 15 semester hours in economics, or 30 semester hours in the broad area of business to include 15 semester hours in economics.

e. *Geography.* 5-12. Completion of 24 semester hours in geography or 30 semester hours in the broad area of social sciences to include 15 semester hours in geography.

f. *History.* K-8. Completion of 24 semester hours in history to include at least 9 semester hours in American history and 9 semester hours in world history.

g. *Psychology.* 5-12. Completion of 24 semester hours in psychology or 30 semester hours in the broad area of social sciences to include 15 semester hours in psychology.

h. *Social studies.* K-8. Completion of 24 semester hours in social studies, to include coursework from at least three of these areas: history, sociology, economics, American government, psychology and geography.

i. *Sociology.* 5-12. Completion of 24 semester hours in sociology or 30 semester hours in the broad area of social sciences to include 15 semester hours in sociology.

j. *World history.* 5-12. Completion of 24 semester hours in world history or 30 semester hours in the broad area of social sciences to include 15 semester hours in world history.

k. *All social sciences.* 5-12. Completion of 51 semester hours in the social sciences to include 9 semester hours in each of American and world history, 9 semester hours in government, 6 semester hours in sociology, 6 semester hours in psychology other than educational psychology, 6 semester hours in geography, and 6 semester hours in economics.

l. *Social sciences—basic.* 5-12. Completion of 27 semester hours to include 9 semester hours in each of American history, world history, and American government. Holders of the 5-12 social sciences—basic endorsement may add the following endorsements with 6 semester hours per endorsement area: 5-12 economics, 5-12 geography, 5-12 psychology, or 5-12 sociology.

13.28(19) Speech communication/theatre.

a. K-8. Completion of 20 semester hours in speech communication/theatre to include coursework in speech communication, creative drama or theatre, and oral interpretation.

b. 5-12. Completion of 24 semester hours in speech communication/theatre to include coursework in speech communication, oral interpretation, creative drama or theatre, argumentation and debate, and mass media communication.

13.28(20) *English as a second language (ESL). K-12.*

a. *Authorization.* The holder of this endorsement is authorized to teach English as a second language in kindergarten and grades one through twelve.

b. *Content.* Completion of 18 semester hours of coursework in English as a second language to include the following:

- (1) Knowledge of pedagogy to include the following:
 1. Methods and curriculum to include the following:
 - Bilingual and ESL methods.
 - Literacy in native and second language.
 - Methods for subject matter content.
 - Adaptation and modification of curriculum.
 2. Assessment to include language proficiency and academic content.
- (2) Knowledge of linguistics to include the following:
 1. Psycholinguistics and sociolinguistics.
 2. Language acquisition and proficiency to include the following:
 - Knowledge of first and second language proficiency.
 - Knowledge of first and second language acquisition.
 - Language to include structure and grammar of English.
- (3) Knowledge of cultural and linguistic diversity to include the following:
 1. History.
 2. Theory, models, and research.
 3. Policy and legislation.
- (4) Current issues with transient populations.

13.28(21) *Elementary school teacher librarian.*

a. *Authorization.* The holder of this endorsement is authorized to serve as a teacher librarian in prekindergarten through grade eight.

b. *Content.* Completion of 24 semester hours in school library coursework to include the following:

- (1) Literacy and reading. This requirement includes the following competencies:
 1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy in children.
 2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading among children, based on familiarity with selection tools and current trends in literature for children.
- (2) Information and knowledge. This requirement includes the following competencies:
 1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.
 2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.
 3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.
 4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.
 5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.
 6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.

(3) Program administration and leadership. This requirement includes the following competencies:

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

(4) Practicum. This requirement includes the following competencies:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the elementary level.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the elementary level.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the elementary level.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula at the elementary level.

13.28(22) Secondary school teacher librarian.

a. *Authorization.* The holder of this endorsement is authorized to serve as a teacher librarian in grades five through twelve.

b. *Content.* Completion of 24 semester hours in school library coursework to include the following:

(1) Literacy and reading. This requirement includes the following competencies:

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy in young adults.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading among young adults, based on familiarity with selection tools and current trends in literature for young adults.

(2) Information and knowledge. This requirement includes the following competencies:

1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.

(3) Program administration and leadership. This requirement includes the following competencies:

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

(4) Practicum. This requirement includes the following competencies:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the secondary level.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the secondary level.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the secondary level.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula at the secondary level.

13.28(23) School teacher librarian. PK-12.

a. *Authorization.* The holder of this endorsement is authorized to serve as a teacher librarian in prekindergarten through grade twelve. The applicant must be the holder of or eligible for the initial license.

b. *Program requirements.* Degree—master's.

c. *Content.* Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school library coursework, to include the following:

(1) Literacy and reading. This requirement includes the following competencies:

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy for youth of all ages.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading, based on familiarity with selection tools and current trends in literature for youth of all ages.

3. Practitioners understand how to develop a collection of reading and informational materials in print and digital formats that supports the diverse developmental, cultural, social and linguistic needs of all learners and their communities.

4. Practitioners model and teach reading comprehension strategies to create meaning from text for youth of all ages.

(2) Information and knowledge. This requirement includes the following competencies:

1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.

8. Practitioners understand the process of collecting, interpreting, and using data to develop new knowledge to improve the school library program.

9. Practitioners employ the methods of research in library and information science.
- (3) Program administration and leadership. This requirement includes the following competencies:
 1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.
 2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.
 3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users of all ages.
 4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.
 5. Practitioners demonstrate knowledge of best practices related to planning, budgeting (including alternative funding), organizing, and evaluating human and information resources and facilities to ensure equitable access.
 6. Practitioners understand strategic planning to ensure that the school library program addresses the needs of diverse communities.
 7. Practitioners advocate for school library and information programs, resources, and services among stakeholders.
 8. Practitioners promote initiatives and partnerships to further the mission and goals of the school library program.
- (4) Practicum. This requirement includes the following competencies:
 1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the elementary and secondary levels.
 2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the elementary and secondary levels.
 3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the elementary and secondary levels.
 4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula.

13.28(24) Talented and gifted teacher.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher or a coordinator of programs for the talented and gifted from the prekindergarten level through grade twelve. This authorization does not permit general classroom teaching at any level except that level or area for which the holder is eligible or holds the specific endorsement.

b. Program requirements—content. Completion of 12 undergraduate or graduate semester hours of coursework in the area of the talented and gifted to include the following:

- (1) Psychology of the gifted.
 1. Social needs.
 2. Emotional needs.
- (2) Programming for the gifted.
 1. Prekindergarten-12 identification.
 2. Differentiation strategies.
 3. Collaborative teaching skills.
 4. Program goals and performance measures.
 5. Program evaluation.
- (3) Practicum experience in gifted programs.

NOTE: Teachers in specific subject areas will not be required to hold this endorsement if they teach gifted students in their respective endorsement areas.

13.28(25) American Sign Language endorsement.

a. Authorization. The holder of this endorsement is authorized to teach American Sign Language in kindergarten and grades one through twelve.

b. Content. Completion of 18 semester hours of coursework in American Sign Language to include the following:

- (1) Second language acquisition.
- (2) Sociology of the deaf and hard-of-hearing community.
- (3) Linguistic structure of American Sign Language.
- (4) Language teaching methodology specific to American Sign Language.
- (5) Teaching the culture of deaf and hard-of-hearing people.
- (6) Assessment of students in an American Sign Language program.

13.28(26) Elementary professional school counselor.

a. Authorization. The holder of this endorsement is authorized to serve as a professional school counselor in kindergarten and grades one through eight.

b. Program requirements. Master's degree from an accredited institution of higher education.

c. Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:

- (1) Nature and needs of individuals at all developmental levels.
 1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adulthood.
 2. Apply knowledge of learning and personality development to assist students in developing their full potential.
- (2) Social and cultural foundations.
 1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of students and their racial/ethnic, gender, age, physical, and learning differences.
 2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.
 3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.
- (3) Fostering of relationships.
 1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.
 2. Communicate effectively with parents, colleagues, students and administrators.
 3. Counsel students in the areas of personal, social, academic, and career development.
 4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.
 5. Implement developmentally appropriate counseling interventions with children and adolescents.
 6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.
 7. Refer students for specialized help when appropriate.
 8. Value the well-being of the students as paramount in the counseling relationship.
- (4) Group work.
 1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.
 2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.
- (5) Career development, education, and postsecondary planning.
 1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.
 2. Apply knowledge of career assessment and career choice programs.
 3. Implement occupational and educational placement, follow-up and evaluation.
 4. Develop a counseling network and provide resources for use by students in personalizing the exploration of postsecondary educational opportunities.
- (6) Assessment and evaluation.

1. Demonstrate individual and group approaches to assessment and evaluation.
2. Demonstrate an understanding of the proper administration and uses of standardized tests.
3. Apply knowledge of test administration, scoring, and measurement concerns.
4. Apply evaluation procedures for monitoring student achievement.
5. Apply assessment information in program design and program modifications to address students' needs.
6. Apply knowledge of legal and ethical issues related to assessment and student records.
- (7) Professional orientation.
 1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.
 2. Maintain a high level of professional knowledge and skills.
 3. Apply knowledge of professional and ethical standards to the practice of school counseling.
 4. Articulate the professional school counselor role to school personnel, parents, community, and students.
- (8) School counseling skills.
 1. Design, implement, and evaluate a comprehensive, developmental school counseling program.
 2. Implement and evaluate specific strategies designed to meet program goals and objectives.
 3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.
 4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.
 5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.
 6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.
 7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.
 8. Assist in the process of identifying and addressing the needs of the exceptional student.
 9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.
 10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.
 11. Promote use of school counseling and educational and career planning activities and programs involving the total school community to provide a positive school climate.
- (9) Classroom management.
 1. Apply effective classroom management strategies as demonstrated in delivery of classroom and large group school counseling curriculum.
 2. Consult with teachers and parents about effective classroom management and behavior management strategies.
- (10) Curriculum.
 1. Write classroom lessons including objectives, learning activities, and discussion questions.
 2. Utilize various methods of evaluating what students have learned in classroom lessons.
 3. Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.
 4. Design a classroom unit of developmentally appropriate learning experiences.
 5. Demonstrate knowledge in writing standards and benchmarks for curriculum.
- (11) Learning theory.
 1. Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense of community in the classroom, and cooperative learning experiences.

2. Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.

3. Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.

(12) Teaching and counseling practicum. The candidate will complete a preservice supervised practicum of a minimum of 100 hours, and at least 40 of these hours must be direct service. Candidates will complete a supervised internship for a minimum of 600 hours, and at least 240 of these hours must be direct service. For candidates seeking both the K-8 and 5-12 professional school counselor endorsements, a minimum of 100 hours of the practicum or internship experiences listed above must be completed at each of the desired endorsement levels.

13.28(27) Secondary professional school counselor.

a. *Authorization.* The holder of this endorsement is authorized to serve as a professional school counselor in grades five through twelve.

b. *Program requirements.* Master's degree from an accredited institution of higher education.

c. *Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include:

(1) The competencies listed in subparagraphs 13.28(26) "c"(1) to (11).

(2) The teaching and counseling practicum. The candidate will complete a preservice supervised practicum and an internship that meet the requirements set forth in 13.28(26) "c"(12).

13.28(28) School nurse endorsement. The school nurse endorsement does not authorize general classroom teaching, although it does authorize the holder to teach health at all grade levels. Alternatively, a nurse may obtain a statement of professional recognition (SPR) from the board of educational examiners, in accordance with the provisions set out in 282—Chapter 16, Statements of Professional Recognition (SPR).

a. *Authorization.* The holder of this endorsement is authorized to provide service as a school nurse at the prekindergarten and kindergarten levels and in grades one through twelve.

b. *Content.*

(1) Organization and administration of school nurse services including the appraisal of the health needs of children and youth.

(2) School-community relationships and resources/coordination of school and community resources to serve the health needs of children and youth.

(3) Knowledge and understanding of the health needs of exceptional children.

(4) Health education.

c. *Other.* Hold a license as a registered nurse issued by the Iowa board of nursing.

13.28(29) Athletic coach. K-12. An applicant for the coaching endorsement must hold a teacher's license with one of the teaching endorsements.

a. *Authorization.* The holder of this endorsement may serve as a head coach or an assistant coach in kindergarten and grades one through twelve.

b. *Program requirements.*

(1) One semester hour college or university course in the structure and function of the human body in relation to physical activity, and

(2) One semester hour college or university course in human growth and development of children and youth as related to physical activity, and

(3) Two semester hour college or university course in athletic conditioning, care and prevention of injuries and first aid as related to physical activity, and

(4) One semester hour college or university course in the theory of coaching interscholastic athletics, and

(5) Successful completion of the concussion training approved by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union, and

(6) A current certificate of CPR training.

13.28(30) Content specialist endorsement. Rescinded IAB 12/16/20, effective 1/20/21.

13.28(31) Engineering. 5-12.

- a. Completion of 24 semester hours in engineering coursework.
- b. Methods and strategies of STEM instruction or methods of teaching science or mathematics.

13.28(32) STEM.**a. K-8.**

(1) Authorization. The holder of this endorsement is authorized to teach science, mathematics, and integrated STEM courses in kindergarten through grade eight.

(2) Program requirements. Be the holder of the teacher—elementary classroom endorsement.

(3) Content.

1. Completion of a minimum of 12 semester hours of college-level science.

2. Completion of a minimum of 12 semester hours of college-level math (or the completion of Calculus I) to include coursework in computer programming.

3. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:

- Engineering and technological design courses for education majors;
- Technology or engineering content coursework.

4. Completion of a minimum of 6 semester hours of required coursework in STEM curriculum and methods to include the following essential concepts and skills:

- Comparing and contrasting the nature and goals of each of the STEM disciplines;
- Promoting learning through purposeful, authentic, real-world connections;
- Integration of content and context of each of the STEM disciplines;
- Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);

- Curriculum and standards mapping;

• Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;

- Assessment of integrative learning approaches;
- Information literacy skills in STEM;
- Processes of science and scientific inquiry;
- Mathematical problem-solving models;
- Communicating to a variety of audiences;
- Classroom management in project-based classrooms;
- Instructional strategies for the inclusive classroom;
- Computational thinking;
- Mathematical and technological modeling.

5. Completion of a STEM field experience of a minimum of 30 contact hours that may be met through the following:

- Completing a STEM research experience;
- Participating in a STEM internship at a STEM business or informal education organization; or
- Leading a STEM extracurricular activity.

b. 5-8.

(1) Authorization. The holder of this endorsement is authorized to teach science, mathematics, and integrated STEM courses in grades five through eight.

(2) Program requirements. Be the holder of a 5-12 science, mathematics, or industrial technology endorsement or 5-8 middle school mathematics or science endorsement.

(3) Content.

1. Completion of a minimum of 12 semester hours of college-level science.

2. Completion of a minimum of 12 semester hours of college-level math (or the completion of Calculus I) to include coursework in computer programming.

3. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:

- Engineering and technological design courses for education majors;
- Technology or engineering content coursework.

4. Completion of a minimum of 6 semester hours of required coursework in STEM curriculum and methods to include the following essential concepts and skills:

- Comparing and contrasting the nature and goals of each of the STEM disciplines;
- Promoting learning through purposeful, authentic, real-world connections;
- Integration of content and context of each of the STEM disciplines;
- Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
- Curriculum and standards mapping;
- Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;
- Assessment of integrative learning approaches;
- Information literacy skills in STEM;
- Processes of science and scientific inquiry;
- Mathematical problem-solving models;
- Communicating to a variety of audiences;
- Classroom management in project-based classrooms;
- Instructional strategies for the inclusive classroom;
- Computational thinking;
- Mathematical and technological modeling.

5. Completion of a STEM field experience of a minimum of 30 contact hours that may be met through the following:

- Completing a STEM research experience;
- Participating in a STEM internship at a STEM business or informal education organization; or
- Leading a STEM extracurricular activity.

c. *Specialist K-12.*

(1) Authorization. The holder of this endorsement is authorized to serve as a STEM specialist in kindergarten and grades one through twelve.

(2) Program requirements.

1. The applicant must have met the requirements for a standard Iowa teaching license and a teaching endorsement in mathematics, science, engineering, industrial technology, or agriculture.

2. The applicant must hold a master's degree in math, science, engineering or technology or another area with at least 12 hours of college-level science and at least 12 hours of college-level math (or completion of Calculus I) to include coursework in computer programming.

(3) Content.

1. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:

- Engineering and technological design courses for education majors;
- Technology or engineering content coursework.

2. Completion of 9 semester hours in professional development to include the following essential concepts and skills:

- STEM curriculum and methods:
 - Comparing and contrasting the nature and goals of each of the STEM disciplines;
 - Promoting learning through purposeful, authentic, real-world connections;
 - Integration of content and context of each of the STEM disciplines;

- Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
 - Curriculum/standards mapping;
 - Assessment of integrative learning approaches;
 - Information literacy skills in STEM;
 - Processes of science/scientific inquiry;
 - Mathematical problem-solving models;
 - Classroom management in project-based classrooms;
 - Instructional strategies for the inclusive classroom;
 - Computational thinking;
 - Mathematical and technological modeling.
 - STEM experiential learning:
 - Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;
 - STEM research experiences;
 - STEM internship at a STEM business or informal education organization;
 - STEM extracurricular activity;
 - Communicating to a variety of audiences.
 - Leadership in STEM:
 - STEM curriculum development and assessment;
 - Curriculum mapping;
 - Assessment of student engagement;
 - STEM across the curriculum;
 - Research on best practices in STEM;
 - STEM curriculum accessibility for all students.
3. Completion of an internship/externship professional experience or prior professional experience in STEM for a minimum of 90 contact hours.

13.28(33) *Multioccupations.*

a. Completion of any 5-12 endorsement and, in addition thereto, coursework in foundations of career and technical education and coordination of cooperative programs, and work experience which meets one of the following:

- (1) Four thousand hours of career and technical experience in two or more careers; or
- (2) One thousand hours of work experience or externships in two or more careers and two or more years of teaching experience at the PK-12 level.

b. The multioccupations endorsement also authorizes the holder to supervise students in cooperative programs, work-based learning programs, and similar programs in which the student is placed in school-sponsored, on-the-job situations.

13.28(34) *CTE information technology. 5-12.*

a. *Authorization.* The holder of this endorsement is authorized to teach career and technical education (CTE) information technology, CTE computer science, and CTE computer programming courses.

b. *Program requirements.* Applicants must hold a valid Iowa teaching license with at least one other teaching endorsement.

c. *Content.* A minimum of 12 semester hours of computer science to include coursework in the following:

- (1) Data representation and abstraction to include primitive data types, static and dynamic data structures, and data types and stores.
- (2) Designing, developing, testing and refining algorithms to include proficiency in two or more programming paradigms.
- (3) Systems and networks to include operating systems, networks, mobile devices, and machine-level data representation.

d. Methods course. A content area methods course is required pursuant to 13.29(1). The course should include the following effective teaching and learning strategies for information technology:

(1) Curriculum development including recognizing and defining real-world computational problems; computing concepts and constructs; developing and using abstractions; creating, testing, and refining computational artifacts; and problem-solving strategies in computer science.

(2) Project-based methodologies that support active and authentic learning, fostering an inclusive computing culture, collaborative groupings, and opportunities for creative and innovative thinking.

(3) Communication about computing including multiple forms of media.

(4) Digital citizenship including the social, legal, ethical, safe and effective use of computer hardware, software, peripherals, and networks.

e. CTE methods.

(1) A minimum of six semester hours of career and technical curriculum and methods to include:

1. Foundations of career and technical education.

2. Methods of career and technical education.

3. Evaluation and assessment of career and technical programs.

(2) The CTE methods coursework is not required if the educator holds another career and technical endorsement.

f. Waiver of coursework requirements. During the first year of implementation, the coursework requirements may be waived if the practitioner demonstrates relevant content knowledge mastery and successful teaching experience in this endorsement area through criteria established by the board of educational examiners.

13.28(35) Computer science. K-8 and 5-12.

a. Authorization. The holder of this endorsement is authorized to teach selected computer science and computer programming courses.

b. Program requirements. Applicants must hold a valid Iowa teaching license with at least one additional teaching endorsement.

c. Content. A minimum of 12 semester hours of computer science to include coursework in the following:

(1) Data representation and abstraction to include primitive data types, static and dynamic data structures, and data types and stores.

(2) Designing, developing, testing and refining algorithms to include proficiency in two or more programming paradigms.

(3) Systems and networks to include operating systems, networks, mobile devices, and machine-level data representation.

d. Methods course. A content area methods course is required pursuant to 13.29(1). The course should include the following effective teaching and learning strategies for information technology:

(1) Curriculum development including recognizing and defining real-world computational problems; computing concepts and constructs; developing and using abstractions; creating, testing, and refining computational artifacts; and problem-solving strategies in computer science.

(2) Project-based methodologies that support active and authentic learning, fostering an inclusive computing culture, collaborative groupings, and opportunities for creative and innovative thinking.

(3) Communication about computing including multiple forms of media.

(4) Digital citizenship including the social, legal, ethical, safe and effective use of computer hardware, software, peripherals, and networks.

e. Computer science specialist. If the requirements in 13.28(35)“c” and “d” are met and the applicant achieves a minimum of 24 semester hours of computer science content, a computer science specialist endorsement will be granted and the additional teaching endorsement set forth in 13.28(35) “b” will not be required.

f. Waiver of coursework requirements. During the first year of implementation, the coursework requirements may be waived if the practitioner demonstrates relevant content knowledge mastery and successful teaching experience in this endorsement area through criteria established by the board of educational examiners.

13.28(36) *Dyslexia specialist.* K-12. The applicant must have met the requirements for the standard license and have completed at least three years of post-baccalaureate teaching experience in a K-12 setting. Applicants who have achieved dyslexia certification in another state may apply for a certification review through the Iowa reading research center.

a. Authorization. The holder of this endorsement is authorized to serve as a dyslexia specialist in kindergarten and grades 1 through 12.

b. Content. Completion of 18 semester hours in dyslexia strategies to include the following:

(1) Knowledge of dyslexia. The dyslexia specialist will have knowledge of dyslexia and:

1. Understand the tenets of the International Dyslexia Association's definition of dyslexia, including the neurobiological nature and cognitive-linguistic correlates.

2. Identify distinguishing characteristics of dyslexia and commonly co-occurring disorders, including dysgraphia, dyscalculia, attention deficit hyperactivity disorder, expressive language disorders, receptive language disorders, and others.

3. Recognize that dyslexia may present differently along a continuum of severity and impact depending upon age, grade, and compensatory factors.

4. Understand federal and state laws that pertain to dyslexia, including use of the word "dyslexia" within school settings and documentation.

5. Understand common misconceptions regarding characteristics of and interventions for dyslexia.

(2) Psychology of language and reading. The dyslexia specialist will understand the highly complex processes by which children learn to speak, read, and write, including language acquisition, linguistics, and the structure of written language, including phonological processing, phonics, orthography, morphology, syntax, and semantics, as well as the relationship of these components to typical and atypical reading and writing development and instruction for students with dyslexia.

(3) Curriculum and instruction. The dyslexia specialist will use appropriate instructional approaches and materials including preparation in more than one curriculum as well as integrated, comprehensive, explicit, and systematic literacy instruction to support student learning in reading and writing, including the following:

1. Instruction utilizing multisensory and multimodal strategies (visual, auditory, kinesthetic, and tactile), systematic and cumulative instruction, direct instruction, diagnostic and prescriptive teaching, as well as synthetic and analytic instruction.

2. Instructional approaches supported by the science of reading for the following areas: phonological processing, phonics, fluency, comprehension, vocabulary, spelling, and writing.

3. Creation of a dyslexia-friendly learning environment (within or outside the regular classroom) utilizing evidence-based accommodations and modifications to meet the needs of students with dyslexia, including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia.

4. Use of data to determine effectiveness of the instruction and curriculum along with student responsiveness to it.

(4) Assessment, diagnosis, and evaluation. The dyslexia specialist will be confident using a variety of formal assessment tools and practices to evaluate students' reading and writing abilities in a variety of domains. The dyslexia specialist will:

1. Demonstrate an understanding of the literature and research related to assessments and their purposes (including the strengths and limitations of assessments) and assessment tools for screening, diagnosis, progress monitoring, and measuring outcomes.

2. Demonstrate an understanding of the signs and symptoms of reading difficulties, including but not limited to dyslexia; and also demonstrate an understanding of norms and student benchmarks.

3. Select, administer, and interpret assessments for specific purposes, including screening students at risk for dyslexia and identifying students who display a profile of dyslexia, and:

- Understand the features of standardized norm-referenced assessments.

- Understand the importance of selecting reliable and valid assessments to evaluate typical and atypical reading development.

- Interpret various scores derived from standardized norm-referenced and criterion-referenced assessments.

4. Use assessment information to plan and evaluate instruction, including appropriate interventions, remediation, assistive technology, and classroom accommodations for students with dyslexia and other difficulties. This will include the use of multiple data sources for analysis, instructional planning, examining the effectiveness of specific intervention practices, and examining students' responses to interventions.

5. Communicate assessment results and implications to a variety of audiences, including staff, parents, and students.

6. Understand appropriate IEP goals and Section 504 plans for students who display characteristics of dyslexia.

(5) Practicum in dyslexia. The dyslexia specialist will participate in elementary and secondary practicum experiences with instructors who have experience with and are currently serving students who display characteristics of dyslexia. The practicum must include:

1. Supervised administration of norm-referenced literacy assessments.
2. Practice composing a report of literacy assessment results that will include interpretation of the results and instructional recommendations.

3. Supervised delivery of systematic, explicit, and multisensory intervention for students with characteristics of dyslexia.

4. Practice composing a report of students' response to intervention.

[ARC 7986B, IAB 7/29/09, effective 9/2/09; ARC 8248B, IAB 11/4/09, effective 10/12/09; ARC 8403B, IAB 12/16/09, effective 1/20/10; ARC 9070B, IAB 9/8/10, effective 10/13/10; ARC 9071B, IAB 9/8/10, effective 10/13/10; ARC 9210B, IAB 11/3/10, effective 12/8/10; ARC 9211B, IAB 11/3/10, effective 12/8/10; ARC 9212B, IAB 11/3/10, effective 12/8/10; ARC 9838B, IAB 11/2/11, effective 12/7/11; ARC 9839B, IAB 11/2/11, effective 12/7/11; ARC 0448C, IAB 11/14/12, effective 12/19/12; ARC 0449C, IAB 11/14/12, effective 12/19/12; ARC 0866C, IAB 7/24/13, effective 8/28/13; ARC 0875C, IAB 7/24/13, effective 8/28/13; ARC 0986C, IAB 9/4/13, effective 10/9/13; ARC 1085C, IAB 10/16/13, effective 11/20/13; ARC 1171C, IAB 11/13/13, effective 12/18/13; ARC 1328C, IAB 2/19/14, effective 3/26/14; ARC 1327C, IAB 2/19/14, effective 3/26/14; ARC 2015C, IAB 6/10/15, effective 7/15/15; ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 2397C, IAB 2/17/16, effective 3/23/16; ARC 2586C, IAB 6/22/16, effective 7/27/16; ARC 2793C, IAB 11/9/16, effective 12/14/16; see Delay note at end of chapter; ARC 3197C, IAB 7/5/17, effective 8/9/17; ARC 3634C, IAB 2/14/18, effective 3/21/18; ARC 5322C, IAB 12/16/20, effective 1/20/21; ARC 5416C, IAB 2/10/21, effective 3/17/21; ARC 5802C, IAB 7/28/21, effective 9/1/21; ARC 5803C, IAB 7/28/21, effective 9/1/21; ARC 6128C, IAB 1/12/22, effective 2/16/22]

282—13.29(272) Adding, removing or reinstating a teaching endorsement.

13.29(1) Adding an endorsement. After the issuance of a teaching license, an individual may add other endorsements to that license upon proper application, provided current requirements for that endorsement have been met. An updated license with expiration date unchanged from the original or renewed license will be prepared.

a. Options. To add an endorsement, the applicant must follow one of these options:

- (1) Option 1. Receive the Iowa teacher education institution's recommendation that the current approved program requirements for the endorsement have been met.

- (2) Option 2. Receive verification from the Iowa teacher education institution that the minimum state requirements for the endorsement have been met in lieu of the institution's approved program.

- (3) Option 3. Apply for a review of the transcripts by the board of educational examiners' staff to determine if all Iowa requirements have been met. The applicant must submit documentation that all of the Iowa requirements have been met by filing transcripts and supporting documentation for review. The fee for the transcript evaluation is in 282—Chapter 12. This fee shall be in addition to the fee for adding the endorsement.

b. Additional requirements for adding an endorsement.

- (1) In addition to meeting the requirements for Iowa licensure, applicants for endorsements shall have completed a methods class appropriate for teaching the general subject area and grade levels of the endorsement added.

- (2) Practitioners who are adding a K-8 endorsement and have not student taught at the elementary level shall complete a teaching practicum in an elementary setting. Applicants seeking the early

childhood or elementary endorsements set forth in rule 282—13.26(272) must complete the required field experience and teaching practicum specific to the endorsement desired.

(3) Practitioners who are adding a 5-12 endorsement and have not student taught at the secondary level shall complete a teaching practicum in a high school setting.

(4) Practitioners holding the K-8 endorsement in the content area of the 5-12 endorsement being added may satisfy the requirement for the secondary methods class and the teaching practicum by completing all required coursework and presenting verification of competence. This verification of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level. This verification of competence may be submitted at any time during the term of the Class B license. The practitioner must obtain a Class B license while practicing with the 5-12 endorsement.

(5) Applicants seeking a board of educational examiners transcript review must have achieved a C- grade or higher in the courses that will be considered for an endorsement.

13.29(2) *Removal of an endorsement; reinstatement of removed endorsement.*

a. Removal of an endorsement. A practitioner may remove an endorsement from the practitioner's license as follows:

(1) To remove an endorsement, the practitioner shall meet the following conditions:

1. A practitioner who holds a standard or master educator license is eligible to request removal of an endorsement from the license if the practitioner has not taught in the subject or assignment area of the endorsement in the five years prior to the request for removal of the endorsement, and

2. The practitioner must submit a notarized written application form furnished by the board of educational examiners to remove an endorsement at the time of licensure renewal (licensure renewal is limited to one calendar year prior to the expiration date of the current license), and

3. The application must be signed by the superintendent or designee in the district in which the practitioner is under contract. The superintendent's signature shall serve as notification and acknowledgment of the practitioner's intent to remove an endorsement from the practitioner's license. The absence of the superintendent's or designee's signature does not impede the removal process.

(2) The endorsement shall be removed from the license at the time of application.

(3) If a practitioner is not employed and submits an application, the provisions of 13.29(2) "a"(1)"3" shall not be required.

(4) If a practitioner submits an application that does not meet the criteria listed in 13.29(2) "a"(1)"1" to "3," the application will be rendered void and the practitioner will forfeit the processing fee.

(5) The executive director has the authority to approve or deny the request for removal. Any denial is subject to the appeal process set forth in rule 282—11.35(272).

b. Reinstatement of a removed endorsement.

(1) If the practitioner wants to add the removed endorsement at a future date, all coursework for the endorsement must be completed within the five years preceding the application to add the endorsement.

(2) The practitioner must meet the current endorsement requirements when making application.

[ARC 8248B, IAB 11/4/09, effective 10/12/09; ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 2584C, IAB 6/22/16, effective 7/27/16]

282—13.30(272) Licenses—issue and expiration dates, corrections, duplicates, and fraud.

13.30(1) *Issue and expiration dates on original license.* A license is valid only from and after the date of issuance. Licenses, authorizations, certificates, and statements of professional recognition will expire on the last day of the practitioner's birth month after the term of the license unless otherwise specified. If the expiration date is changed by rule, the change may be retroactive.

13.30(2) *Correcting licenses.* If a licensee notifies board staff of a typographical or clerical error on the license within 30 days of the date of the board's mailing of a license, a corrected license shall be issued without charge to the licensee. If notification of a typographical or clerical error is made more than 30 days after the date of the board's mailing of a license, a corrected license shall be issued upon receipt of the fee for issuance of a duplicate license. For purposes of this rule, typographical or clerical

errors include misspellings, errors in the expiration date of a license, errors in the type of license issued, and the omission or misidentification of the endorsements for which application was made. A licensee requesting the addition of an endorsement not included on the initial application must submit a new application and the appropriate application fee.

13.30(3) *Duplicate licenses.* Upon application and payment of the fee set out in 282—Chapter 12, a duplicate license shall be issued.

13.30(4) *Fraud in procurement or renewal of licenses.* Fraud in procurement or renewal of a license or falsifying records for licensure purposes will constitute grounds for filing a complaint with the board of educational examiners.

[ARC 3979C, IAB 8/29/18, effective 10/3/18]

These rules are intended to implement Iowa Code chapter 272 and 2014 Iowa Acts, chapter 1116, division VI.

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¹ December 14, 2016, effective date of 13.28(29)“b”(6) [ARC 2793C, Item 1] delayed until the adjournment of the 2017 General Assembly by the Administrative Rules Review Committee at its meeting held December 13, 2016.

² January 6, 2021, effective date of 13.6 [ARC 5303C, Item 1] delayed until the adjournment of the 2021 session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 2020.

CHAPTER 16
STATEMENTS OF PROFESSIONAL RECOGNITION (SPR)
[Prior to 1/14/09, see Educational Examiners Board[282] Ch 14]

282—16.1(272) Statement of professional recognition (SPR).

16.1(1) The following are authorizations that require or permit statements of professional recognition and licenses obtained from the professional licensure division, department of public health, or the board of nursing and that do not permit service as a teacher:

- a. School audiologist.
- b. School nurse.
- c. School occupational therapist.
- d. School physical therapist.
- e. School social worker.
- f. Special education nurse.
- g. Speech-language pathologist.
- h. School behavior analyst.
- i. Mental health professional.

16.1(2) Application. Statements of professional recognition are issued upon application filed on a form provided by the board of educational examiners and upon completion of the background check requirements set forth in rule 282—13.1(272).

16.1(3) Degrees. Degrees must be from a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

[ARC 2230C, IAB 11/11/15, effective 12/16/15; ARC 3633C, IAB 2/14/18, effective 3/21/18; ARC 5803C, IAB 7/28/21, effective 9/1/21; ARC 5807C, IAB 7/28/21, effective 7/8/21]

282—16.2(272) School audiologist. If an applicant has completed a master's degree in audiology but has not completed the education sequence or chooses not to be certified, the applicant must obtain a license from the Iowa board of speech pathology and audiology, department of public health. Additionally, the person is required to obtain an SPR from the board of educational examiners.

16.2(1) Authorization. The holder of this statement of professional recognition is authorized to serve as a school audiologist to pupils from birth to age 21 who are deaf or hard of hearing (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

16.2(2) Requirements. The special education director (or designee) of the area education agency must submit a letter requesting that the authorization be issued. The following documents must be included:

- a. A copy of a temporary or regular license issued from the professional licensure division, department of public health.
- b. An official transcript reflecting a master's degree in audiology.

16.2(3) Validity. The SPR shall be valid for five years.

16.2(4) Temporary authorization. A temporary SPR will be issued for one school year. An approved human relations course must be completed before the start of the next school year. The applicant must provide evidence that:

- a. The applicant has completed the human relations component within the required time frame; and
- b. The class of license from the professional licensure division is a regular license in the event a temporary license was issued initially.

[ARC 3633C, IAB 2/14/18, effective 3/21/18; ARC 5802C, IAB 7/28/21, effective 9/1/21]

282—16.3(272) School nurse. A person who has passed the registered nurse examination and is licensed by the Iowa board of nursing may obtain a statement of professional recognition (SPR) from the board of educational examiners.

16.3(1) Authorization. The holder of an SPR is authorized to promote the health and safety of the students in an accredited school district, including providing medical treatment as allowed under the authority granted by virtue of holding a license from the Iowa board of nursing.

16.3(2) Requirements.

a. Applicant has passed the registered nurse examination, is licensed by the Iowa board of nursing and has a baccalaureate degree.

b. While employed by an accredited K-12 school district, applicant maintains licensure with the Iowa board of nursing.

16.3(3) Validity. The school nurse SPR shall be valid for five years.

16.3(4) Local requirements. A school district may require an SPR, but the board of educational examiners does not require an SPR for nurses working in a school district.

16.3(5) Renewal. Renewal requirements for the SPR:

a. Applicant must apply for renewal every five years.

b. Applicant must maintain continual licensure with the Iowa board of nursing.

c. Applicant must complete continuing education as required by the Iowa board of nursing.

282—16.4(272) School occupational therapist. A person who holds a degree or equivalent baccalaureate in occupational therapy and a valid license to practice occupational therapy in Iowa as granted by the professional licensure division, department of public health, may obtain a statement of professional recognition (SPR) by the board of educational examiners.

16.4(1) Authorization. The holder of this authorization may serve as a school occupational therapist to pupils from birth to age 21 who have physical impairments (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The legalization for this support personnel is through a statement of professional recognition (SPR) and not through teacher licensure.

16.4(2) Requirements.

a. The special education director (or designee) of the area education agency must submit a letter to the board of educational examiners to request that the authorization be issued.

b. An applicant must also submit the following documents:

(1) A copy of a temporary or regular license from the professional licensure division, department of public health.

(2) An official transcript.

16.4(3) Validity. The SPR shall be valid for five years.

16.4(4) Temporary authorization. A temporary SPR will be issued for one school year if the class of license from the professional licensure division is temporary. A regular SPR will be issued with verification of a regular license and of at least a bachelor's degree in occupational therapy.

282—16.5(272) School physical therapist. A person who holds a degree or equivalent baccalaureate in physical therapy and a valid license to practice physical therapy in Iowa as granted by the professional licensure division, department of public health, may be issued a statement of professional recognition (SPR) by the board of educational examiners.

16.5(1) Authorization. The holder of this authorization can serve as a school physical therapist to pupils from birth to age 21 who have physical impairments (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The legalization for this support service personnel is through a statement of professional recognition (SPR) and not through teacher licensure.

16.5(2) Requirements.

a. The special education director (or designee) of the area education agency must submit a letter to the board of educational examiners to request that the authorization be issued.

b. An applicant must also submit the following documents:

(1) A copy of a temporary or regular license from the professional licensure division, department of public health.

(2) An official transcript.

16.5(3) Validity. The SPR shall be valid for five years.

16.5(4) Temporary authorization. A temporary SPR will be issued for one school year if the class of license from the professional licensure division is temporary. A regular SPR will be issued with verification of a regular license and of at least a bachelor's degree in physical therapy.

282—16.6(272) School social worker. A person who meets the requirements set forth below may be issued a statement of professional recognition (SPR) by the board of educational examiners.

16.6(1) Authorization. The holder of this statement of professional recognition is authorized to serve as a school social worker to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

16.6(2) Requirements. An administrator for the area education agency or local education agency must submit a form to the board to request that the authorization be issued. The application must include:

- a. An official transcript that reflects the master's degree in social work;
- b. The licensed independent social worker (LISW) or licensed master social worker (LMSW) license issued by the Iowa board of social work; and
- c. A statement of agreement verifying that the applicant will also maintain licensure with the board of social work while employed by or providing services to an accredited public or private school or area education agency.

16.6(3) Validity. The SPR shall be valid for five years.

16.6(4) Temporary authorization. A temporary SPR will be issued for one school year if the class of license from the professional licensure division is temporary. A regular SPR will be issued with verification of a regular license and a master's degree in social work.

[ARC 3633C, IAB 2/14/18, effective 3/21/18; ARC 6128C, IAB 1/12/22, effective 2/16/22]

282—16.7(272) Special education nurse. A person who holds a baccalaureate degree in nursing or a master's degree in nursing, holds current licensure in the state of Iowa by the board of nursing and has two years' experience in public health nursing including service to schools or as a school nurse may be issued a statement of professional recognition (SPR) by the board of educational examiners.

16.7(1) Authorization. The holder of this authorization is authorized to serve as a special education nurse to pupils from birth to age 21 requiring special education (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The legalization for this support service personnel is through a statement of professional recognition (SPR) and not through teacher licensure.

16.7(2) Requirements.

- a. The special education director (or designee) of the area education agency must submit a letter to the board of educational examiners to request that the SPR be issued.
- b. An applicant must submit the following documents:
 - (1) A copy of the license issued by the Iowa board of nursing.
 - (2) An official transcript.
 - (3) Verification of two years' experience in public health nursing.
 - (4) Completion of an approved human relations course.

16.7(3) Validity. The SPR shall be valid for five years.

16.7(4) Temporary authorization. A temporary SPR will be issued for one school year. The applicant must provide evidence that:

- a. A professional registered nurse who does not meet the criteria set forth in rule 282—16.7(272) must complete six semester credits of graduate or undergraduate coursework in special education within one school year after receiving temporary authorization; and
- b. An approved human relations course must be completed before the start of the next school year.

282—16.8(272) Speech-language pathologist. If an applicant has completed a master's degree in speech pathology but has not completed the education sequence or chooses not to be certified, the applicant must obtain a license from the Iowa board of speech pathology and audiology, department of public health. Additionally, the person is required to obtain an SPR from the board of educational examiners.

16.8(1) Authorization. The holder of this statement of professional recognition is authorized to serve as a speech-language pathologist to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

16.8(2) Requirements. The special education director (or designee) of the area education agency must submit a letter requesting that the authorization be issued. The following documents must be included:

- a. A copy of a temporary or regular license issued from the professional licensure division, department of public health.
- b. An official transcript reflecting a master's degree in speech pathology.

16.8(3) Validity. The SPR shall be valid for five years.

16.8(4) Temporary authorization. A temporary SPR will be issued for one school year. An approved human relations course must be completed before the start of the next school year. The applicant must provide evidence that:

- a. The applicant has completed the human relations component within the required time frame; and
- b. The class of license from the professional licensure division is a regular license in the event a temporary license was issued initially.

[ARC 3633C, IAB 2/14/18, effective 3/21/18]

282—16.9(272) School behavior analyst. A person who has obtained a master's degree and board-certified behavior analyst certification and who is licensed by the Iowa board of behavioral science may obtain a statement of professional recognition (SPR) from the board of educational examiners.

16.9(1) Authorization. The holder of this authorization can serve as a school behavior analyst to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The legalization for this support service personnel is through an SPR and not through teacher licensure.

16.9(2) Requirements.

- a. The special education director (or designee) of the school district or area education agency must submit a letter to the board of educational examiners to request that the authorization be issued.
- b. An applicant must also submit the following documents:
 - (1) A copy of a temporary or regular license from the board of behavioral science.
 - (2) An official transcript.
- c. While employed by an accredited K-12 school district or area education agency, the applicant must also maintain licensure with the Iowa board of behavioral science.

16.9(3) Validity. The SPR shall be valid for five years.

16.9(4) Temporary authorization. A temporary SPR will be issued for one school year if the class of license from the professional licensure division is temporary. A regular SPR will be issued with verification of a regular license.

[ARC 5807C, IAB 7/28/21, effective 7/8/21]

282—16.10(272) Mental health professional. A mental health professional pursuant to Iowa Code section 228.1 who has obtained a license from a bureau under the Iowa department of public health shall obtain a statement of professional recognition (SPR) from the board of educational examiners to be employed by or provide services to an accredited public or private school.

16.10(1) Authorization. The holder of this authorization can serve as a mental health professional to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The legalization for this support service personnel is through an SPR and not through teacher licensure.

16.10(2) Requirements.

- a. An administrator for the school or area education agency must submit a form to the board of educational examiners to request that the authorization be issued.
- b. An applicant must also submit the following documents:

(1) A copy of a temporary or regular license from the relevant bureau of the Iowa department of public health.

(2) An official transcript.

c. While employed by or providing services to an accredited public or private school or area education agency, the applicant must also maintain licensure with the relevant bureau of the Iowa department of public health.

d. Social workers shall instead obtain the professional service license or SPR specific to school social work which includes the authorization to provide mental health services to an accredited public or private school or area education agency.

16.10(3) *Validity.* The SPR shall be valid for five years.

16.10(4) *Temporary authorization.* A temporary SPR will be issued for one school year if the class of license from the professional licensure division is temporary. A regular SPR will be issued with verification of a regular license.

[ARC 5807C, IAB 7/28/21, effective 7/8/21]

These rules are intended to implement Iowa Code chapter 272.

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CHAPTER 20 RENEWALS

[Prior to 1/14/09, see Educational Examiners Board[282] Ch 17]

282—20.1(272) General renewal information. This chapter contains renewal requirements for those individuals desiring to renew the initial, standard, master educator, professional administrator, or substitute license or a statement of professional recognition (SPR). Individuals desiring to renew a license issued under some other title are referred to 282—Chapters 22, 23, and 24.
[ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—20.2(272) Renewal application forms. Application forms for renewal may be obtained from the board of educational examiners' website at www.boee.iowa.gov or by contacting the office at (515)281-3245.

282—20.3(272) Renewal of licenses.

20.3(1) Issue date. A renewed license is valid only from and after the date of issuance.

20.3(2) General renewal requirements. A license may be renewed for applicants who fulfill the general requirements set out in subrules 20.3(3) through 20.3(5) and the license-specific requirements set out in this chapter under each license.

20.3(3) Background check. Every applicant for renewal or conversion is required to submit a completed application form with the applicant's signature to facilitate a check of the sex offender registry information under Iowa Code section 692A.121, the central registry for child abuse information established under Iowa Code chapter 235A, the central registry for dependent adult abuse information maintained under Iowa Code chapter 235B, and the Iowa court information system. The board may assess the applicant a fee no greater than the costs associated with obtaining and evaluating the background check.

20.3(4) Child and dependent adult abuse trainings. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse trainings approved by the department of human services. The completion documentation must be no more than three years old at the time of application. A waiver of this requirement may apply under the following conditions with appropriate documentation of any of the following:

- a. A person is engaged in active duty in the military service of this state or of the United States.
- b. The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.
- c. A person is practicing a licensed profession outside this state.
- d. A person is otherwise subject to circumstances that would preclude the person from satisfying the approved child and dependent adult abuse training in this state.

20.3(5) Recency of units for renewal. If a license is renewed on or before the date of expiration, the units for renewal are acceptable if earned during the term of the license. If a license is not renewed on the date of expiration, the units for renewal must have been completed within the five-year period immediately preceding the date of application for the renewal.

20.3(6) Timely renewal. A license may only be renewed less than one year before it expires.

20.3(7) College or university degrees and credit. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

[ARC 9451B, IAB 4/6/11, effective 5/11/11; ARC 0026C, IAB 3/7/12, effective 4/11/12; ARC 2230C, IAB 11/11/15, effective 12/16/15; ARC 4634C, IAB 8/28/19, effective 10/2/19; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—20.4(272) Specific renewal requirements for the initial license. In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272). If a person meets all requirements for the standard license except for the options required in rule 282—13.7(272), paragraph "2," the initial license may be renewed upon written request. A second renewal may be granted if the holder of the initial license has not met the options required in rule

282—13.7(272), paragraph “2,” and if the license holder can provide evidence of teaching employment which will be acceptable for the experience requirement. A Class A license may be issued instead of the renewal of the initial license for another initial license if the applicant verifies one of the following:

1. The applicant is involved in the second year of the mentoring and induction program, but the license will expire before the second year of teaching is completed.
2. The applicant has taught for two years in a nonpublic school setting and needs one additional year of teaching to convert the initial license to the standard license.

[ARC 2017C, IAB 6/10/15, effective 7/15/15]

282—20.5(272) Specific renewal requirements for the standard license.

20.5(1) In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

20.5(2) Six units are needed for renewal. These units may be earned in any combination listed as follows:

- a. One unit may be earned for each semester hour of graduate credit which leads toward the completion of a planned master’s, specialist’s, or doctor’s degree program.
- b. One unit may be earned for each semester hour of graduate or undergraduate credit which may not lead to a degree but which adds greater depth/breadth to present endorsements held.
- c. One unit may be earned for each semester hour of credit which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.
- d. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.
- e. Four units may be earned for successful completion of the National Board for Professional Teaching Standards certification. This certification may be used one time for either the standard or master educator license. Four units may also be earned for each National Board for Professional Teaching Standards certification renewal and may be used toward the subsequent renewal of either the standard or master educator license.
- f. Three units may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator.

[ARC 2120C, IAB 9/2/15, effective 10/7/15; ARC 2587C, IAB 6/22/16, effective 7/27/16; ARC 5803C, IAB 7/28/21, effective 9/1/21; ARC 6127C, IAB 1/12/22, effective 2/16/22]

282—20.6(272) Specific renewal requirements for a master educator license.

20.6(1) In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

20.6(2) Four units are needed for renewal. For an applicant who also holds a specialist’s or doctor’s degree, two units are needed for renewal. These units may be earned in any combination listed below:

- a. One unit may be earned for each semester hour of graduate credit which leads toward the completion of a planned master’s, specialist’s, or doctor’s degree program.
- b. One unit may be earned for each semester hour of graduate or undergraduate credit which may not lead to a degree but which adds greater depth/breadth to present endorsements held.
- c. One unit may be earned for each semester hour of credit which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.
- d. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.
- e. Four units may be earned upon successful completion of the National Board for Professional Teaching Standards certification. This certification may be used one time for either the standard or master educator license. Four units may also be earned for each National Board for Professional Teaching Standards certification renewal and may be used toward the subsequent renewal of either the standard or master educator license.

f. Two units may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator, or one unit if the applicant holds a specialist's or doctor's degree.

[ARC 2120C, IAB 9/2/15, effective 10/7/15; ARC 2587C, IAB 6/22/16, effective 7/27/16; ARC 3829C, IAB 6/6/18, effective 7/11/18; ARC 5803C, IAB 7/28/21, effective 9/1/21; ARC 6127C, IAB 1/12/22, effective 2/16/22]

282—20.7(272) Specific renewal requirements for a substitute license. In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272). An applicant for renewal of a substitute license shall meet one of the requirements listed below:

1. Verification of at least 30 days of substitute teaching during the term of the license or one year of teaching experience within the last five years completed during the term of a valid Iowa teaching license.

2. Completion of one licensure renewal credit approved through licensure renewal guidelines established by the board of educational examiners.

3. Completion of one semester hour of credit taken from a community college, college, or university.

[ARC 7988B, IAB 7/29/09, effective 9/2/09; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—20.8(272) Specific renewal requirements for the initial administrator license. In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

20.8(1) Requirements. If an applicant meets all requirements for the professional administrator license except for the requirements in 282—subrule 18.5(3), the initial administrator license may be renewed upon written request. A second renewal may be granted if the holder of the initial administrator license has not met the requirements in 282—subrule 18.5(3) and if the license holder can provide evidence of employment as a PK-12 administrator, which meets the experience requirement.

20.8(2) Extension. An extension of the initial administrator license may be issued instead of the renewal of the initial administrator license if the applicant verifies one of the following:

a. The applicant is involved in a mentoring and induction program, but the license will expire before the first year of administrative experience is completed.

b. The applicant has one year of administrative experience in a nonpublic school setting or in an out-of-state setting and needs one additional year of administrative experience to convert the initial license to the professional license.

[ARC 2017C, IAB 6/10/15, effective 7/15/15; ARC 3196C, IAB 7/5/17, effective 8/9/17]

282—20.9(272) Specific renewal requirements for an administrator license.

20.9(1) In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

20.9(2) Four units are needed for renewal. For an applicant who also holds a specialist's or doctor's degree, two units are needed for renewal. These units may be earned in any combination listed below:

a. One unit may be earned for each semester hour of graduate credit which leads toward the completion of a planned specialist's or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit which may not lead to a degree but which leads to completion of requirements for an administrator endorsement not currently held.

d. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

e. Two units may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator, or in the case of a superintendent, as verified by the school board president, or one unit if the applicant holds a specialist's or doctor's degree.

20.9(3) Evaluator training. An applicant renewing an administrator license must submit documentation of completion of the evaluator training required in Iowa Code section 284.10. A waiver

of the evaluator training may apply under the following conditions with appropriate documentation of any of the following:

- a. The person is engaged in active duty in the military service of this state or of the United States.
 - b. The application of the evaluator training would impose an undue hardship on the person for whom the waiver is requested.
 - c. The person is practicing in a licensed profession outside this state.
- [ARC 2587C, IAB 6/22/16, effective 7/27/16; ARC 3829C, IAB 6/6/18, effective 7/11/18; ARC 5803C, IAB 7/28/21, effective 9/1/21; ARC 6127C, IAB 1/12/22, effective 2/16/22]

282—20.10(272) Renewal requirements for a statement of professional recognition (SPR).

20.10(1) Renewal of the SPR.

- a. The applicant must:
 - (1) Apply for renewal every five years.
 - (2) Maintain continual licensure with the board with which the applicant holds other licensure.
 - (3) Complete continuing education as required by the board with which the applicant holds other licensure.
- b. The SPR shall be valid for five years.
- c. The fee for issuance of the SPR certificate shall be the same as for a standard license as set forth in 282—Chapter 12. All fees are nonrefundable.

20.10(2) Each applicant renewing an SPR must provide documentation that all renewal requirements in subrules 20.3(1) through 20.3(4) have been met.

282—20.11(272) Audit of applications for license renewal. The board will randomly audit a minimum of 10 percent of the applications for renewal of the standard, master educator, and administrator licenses.

20.11(1) *Verification required.* If audited, the licensee must submit verification of compliance with renewal credit requirements. Licensees are required to keep transcripts of courses taken during the term of the license. Original transcripts and all other documents as required by 282—Chapter 20 must be submitted within 30 calendar days after the date of the audit. An extension of time may be granted on an individual basis.

20.11(2) *Results of audit.*

- a. The board shall notify the licensee of satisfactory completion of the audit by issuing the license.
- b. A licensee's failure to complete the audit satisfactorily or falsification of information shall be considered a violation of 282—Chapter 25, Code of Professional Conduct and Ethics, and the executive director may initiate a complaint against the licensee.
- c. A licensee's failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement; completion of an audit will be required prior to further license renewal.

282—20.12(272) Appeal procedure. Any teacher seeking a different level of license who is denied the license due to the evaluation or other requirements may appeal the decision. The appeal shall be made in writing to the executive director of the board of educational examiners who shall establish a date for the hearing within 20 days of receipt of written notice of appeal by giving five days' written notice to appellant unless a shorter time is mutually agreeable. The procedures for hearing followed by the board of educational examiners shall be applicable.

282—20.13(272) Licensure renewal programs.

20.13(1) *Application process.* These rules are to be followed in the preparation and submission of proposals for licensure renewal programs. The application materials must be returned to the board of educational examiners for review and approval. Once the application has been submitted, it will be reviewed, and the applicant agency will be notified of approval or nonapproval and any deficiencies.

20.13(2) *Application for licensure renewal program.*

- a. The application shall contain evidence that the local board of directors (the boards of directors in consortium-based applications) has given formal approval to the development and implementation of the program and the allocation of program resources.

b. The application shall identify the criteria used in selecting faculty/instructors for the licensure renewal programs. These criteria shall include qualifications, experiences (relevant to the nature of the program), preparation and licensure status.

c. There must be evidence of a current survey using multiple data sources that includes, but is not limited to, district and building school improvement goals as well as staff needs and an explanation of procedures used to derive such needs; this documentation must be furnished as a part of the application for a licensure renewal program.

d. Programs developed by eligible agencies shall be based on evidence gathered from the survey referenced in paragraph “c” above.

e. Program objectives must be derived from identified educational needs in the district or districts or special groups to be served; these objectives shall be developed by the eligible agency seeking approval under licensure renewal programs.

f. Each application must include procedures for program evaluation; this evaluation must include faculty/instructor as well as course/activity evaluation. Program and course/activity evaluation shall include, but not be limited to, participant perceptions.

g. Evaluation. The evaluation shall include participant perception and, whenever possible, observation data collection techniques and analyses are required for each approved licensure renewal program.

20.13(3) Eligible agencies/institutions.

a. Teacher renewal.

- (1) Area education agencies, local education agencies, individually or in consortium arrangements.
- (2) Approved nonpublic districts, individually or in consortium arrangements.
- (3) Iowa educational professional organizations.
- (4) Iowa colleges and universities approved for teacher education.

b. Administrator renewal.

- (1) Area education agencies, local education agencies, individually or in consortium arrangements.
- (2) Approved nonpublic districts, individually or in consortium arrangements.
- (3) Iowa educational professional organizations.
- (4) Iowa colleges and universities approved for teacher education.

20.13(4) Authority. The acceptance of licensure renewal credit is provided in rules 282—20.5(272), 282—20.6(272), and 282—20.9(272).

20.13(5) Licensure renewal courses.

a. Licensure renewal courses are planned experiences, activities, and studies designed to develop skills, techniques, knowledge, and understanding of educational research and best practice and to model best practices in professional and organizational development. These courses support school improvement processes and practices and provide for the development of leadership in education. Approved courses and programs must be designed to follow the terms of the renewal requirements set forth for teacher and administrator license renewal in rules 282—20.5(272), 282—20.6(272), and 282—20.9(272). The following indicators of quality will be used in evaluating the approved license renewal programs:

(1) The courses address specific student, teacher, and school needs evidenced in local school improvement plans; or

(2) The courses assist teachers in improving student learning; or

(3) The courses assist teachers in improving teaching evidenced through the adoption or application of practices, strategies, and information.

b. Approved teacher licensure renewal programs must offer and conduct a minimum of ten different courses for teachers during the calendar year, and approved administrator licensure renewal programs must conduct a minimum of five different courses for administrators during the calendar year.

c. A minimum of 15 scheduled clock hours of contact with the instructor, study groups or action research teams equal one renewal unit. Only whole units may be submitted to the board of educational examiners for license renewal.

d. Only renewal units offered through board of educational examiners-approved licensure renewal programs will be accepted for license renewal.

20.13(6) Licensure renewal advisory committee. Licensure renewal programs must be developed with the assistance of a licensure renewal advisory committee.

a. *Membership of the advisory committee.* Once the advisory committee is established, matters pertaining to the term of membership shall be spelled out through established procedures. The advisory committee shall consist of no fewer than five members. The licensure renewal coordinator shall forward the current updated list of licensure renewal advisory committee members to the board of educational examiners upon request.

(1) The licensure renewal advisory committee shall include the following persons for teacher/administrator renewal programs:

1. Elementary and secondary classroom teachers.
2. Local administrators: elementary or secondary principals, curriculum director or superintendent.
3. Higher education representative from a college or university offering an approved teacher education program.

4. Other categories may also be appointed: community college teaching faculty, students, area education agency staff members, school board members, members of educational professional organizations, business/industry representatives, community representatives, representatives of substitute teachers.

(2) The make-up of the membership should reflect the ratio of teachers to administrators within an agency or organization offering an approved licensure renewal program. The membership should reflect the general population by a balance of gender and race and shall be balanced between urban and rural districts.

(3) The licensure renewal coordinator shall be a nonvoting advisory committee member.

(4) Disputes about the appropriate composition of the membership of the licensure renewal advisory committee shall be resolved through local committee action.

b. *Responsibilities of licensure renewal advisory committee.* The licensure renewal advisory committee shall be involved in:

(1) The ongoing area education agency, local district, or other agency staff development needs assessment.

(2) The design and development of an original application for a license renewal program.

(3) The development of criteria for the selection of course instructors; and these criteria shall include, but not be limited to, academic preparation, experience and certification status.

(4) The annual evaluation of licensure renewal programs.

20.13(7) Licensure renewal coordinator.

a. Each agency or organization offering an approved licensure renewal program shall identify a licensed (elementary or secondary) professional staff member who shall be designated as coordinator for the program. This function must be assigned; no application will be approved unless this function has been assigned.

b. *Responsibilities of licensure renewal coordinators:*

- (1) File all reports as requested by the board of educational examiners.
- (2) Serve as a contact person for the board of educational examiners.
- (3) Be responsible for the development of licensure renewal programs which address the professional growth concerns of the clientele.
- (4) Be responsible for the approval of all courses or units offered for licensure renewal.
- (5) Maintain records of approved courses as conducted and of the names of the qualifying participants.
- (6) Maintain a list of all course offerings and approved instructors and forward the list to the board of educational examiners.
- (7) Provide a record of credit for each participant and maintain a cumulative record of credits earned for each participant for a minimum of ten years.

(8) Be responsible for informing participants of the reporting procedures for renewal credits/units earned.

20.13(8) Organization and administration.

a. Local school districts are encouraged to work cooperatively with their respective area education agency in assessing needs and designing and conducting courses.

b. The board of educational examiners reserves the right to evaluate any course, to require submission of evaluation data and to conduct sufficient on-site evaluation to ensure high quality of licensure renewal programs.

c. Agencies or institutions developing new programs shall submit a letter of intent prior to the submission of an application. The application must be filed at least three months prior to the initiation of any planned licensure renewal program.

d. Once a program is approved, the coordinator shall approve all course offerings for licensure renewal units.

e. Initial approval may be for one to three years. Continuing approval may be granted for five-year terms. Continuing approval may involve board of educational examiners sponsored team visits.

f. Records retention. Each approved staff development agency/institution shall retain program descriptions, course activities, documentation of the qualifications of delivery personnel, evaluation reports, and completed renewal units for a period of ten years. This information shall be kept on file in the offices of the area education agency licensure renewal coordinators and shall be made available to the board of educational examiners upon request.

g. Monitoring and evaluation. Each approved licensure renewal program will be monitored by the board of educational examiners to determine the extent to which the program meets/continues to meet program standards and is moving toward the attainment of program objectives. This will include an annual report which shall include an annotated description of the courses provided, evidence of the collaborative efforts used in developing the courses, evidence of the intended results of the courses, and the data for demonstrating progress toward the intended results.

These rules are intended to implement Iowa Code chapter 272.

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CHAPTER 22 AUTHORIZATIONS

[Prior to 1/14/09, see Educational Examiners Board[282] Ch 19]

282—22.1(272) Coaching authorization. A coaching authorization allows an individual to coach any sport in a middle school, junior high school, or high school.

22.1(1) Application process. Any person interested in the coaching authorization shall submit records of credit to the board of educational examiners for an evaluation in terms of the required courses or contact hours. Application materials are available from the office of the board of educational examiners, online at www.boee.iowa.gov, or from institutions or agencies offering approved courses or contact hours.

22.1(2) Requirements. Applicants for the coaching authorization shall have completed the following requirements:

a. Content requirements. Requirements completed for semester hour credit must be through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education. Applicants must complete the following content requirements:

(1) Successful completion of 1 semester credit hour or 10 contact hours in a course relating to knowledge and understanding of the structure and function of the human body in relation to physical activity.

(2) Successful completion of 1 semester credit hour or 10 contact hours in a course relating to knowledge and understanding of human growth and development of children and youth in relation to physical activity.

(3) Successful completion of 2 semester credit hours or 20 contact hours in a course relating to knowledge and understanding of the prevention and care of athletic injuries and medical and safety problems relating to physical activity.

(4) Successful completion of 1 semester credit hour or 10 contact hours relating to knowledge and understanding of the techniques and theory of coaching interscholastic athletics.

(5) Beginning on or after July 1, 2000, each applicant for an initial coaching authorization shall have successfully completed 1 semester credit hour or 15 contact hours in a course relating to the theory of coaching which must include at least 5 contact hours relating to the knowledge and understanding of professional ethics and legal responsibilities of coaches.

(6) Successful completion of the concussion training approved by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union.

(7) Successful completion of CPR training as verified by a current certificate.

b. Minimum age or diploma. Applicants must have attained a minimum of 18 years. Applicants must also:

(1) Possess a minimum of:

1. A high school diploma,
2. A graduate equivalent diploma, or
3. Home school completion verified by the executive director; or

(2) Be 20 years of age or older.

c. Background check. Applicants must complete the background check requirements set forth in rule 282—13.1(272).

d. License without deficiencies. Applicants who hold a coaching license, certificate, or authorization from at least one other issuing jurisdiction in another state will not be subject to additional coursework if the following requirements have been met:

(1) Verification of Iowa residency in the state of Iowa, or, for military spouses, verification of a permanent change of military installation.

(2) Valid or expired equivalent license in good standing from another state without pending disciplinary action, valid for a minimum of one year, exclusive of a temporary, emergency or substitute license or certificate.

22.1(3) Validity. The coaching authorization shall be valid for five years.

22.1(4) *Renewal.* The authorization may be renewed upon application and verification of successful completion of:

a. Renewal activities. Applicants for renewal of a coaching authorization must:

(1) Successfully complete five planned renewal activities/courses related to athletic coaching approved in accordance with guidelines approved by the board of educational examiners. Additionally, each applicant for the renewal of a coaching authorization shall have completed one renewal activity/course relating to the knowledge and understanding of professional ethics and legal responsibilities of coaches.

(2) Annually complete the concussion training approved by the Iowa High School Athletic Association or the Iowa Girls High School Athletic Union. Completion of the concussion training may be waived if the applicant is not serving as a coach. Attendance at the annual concussion training may be used for a maximum of one planned activity/course required in 22.1(4)“a”(1).

(3) Complete child and dependent adult abuse trainings. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse trainings pursuant to 282—subrule 20.3(4). These trainings combined may be used for a total of one planned activity/course required in 22.1(4)“a”(1).

(4) Provide a current certificate of CPR training.

b. A one-year extension of the applicant’s coaching authorization may be issued if all requirements for the renewal of the coaching authorization have not been met. The applicant must complete the concussion training approved by the Iowa High School Athletic Association or the Iowa Girls High School Athletic Union before serving as a coach. The one-year extension is not renewable. The fee for this extension is found in 282—Chapter 12.

22.1(5) *Revocation and suspension.* Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the coaching authorization. An ethics complaint may be filed if a practitioner begins coaching a sport without current concussion training.

22.1(6) *Approval of courses.* Each institution of higher education, private college or university, merged area school or area education agency wishing to offer the semester credit or contact hours for the coaching authorization must submit course descriptions for each offering to the board of educational examiners for approval. After initial approval, any changes by agencies or institutions in course offerings shall be filed with the board of educational examiners.

22.1(7) *Transitional coaching authorization.*

a. Application process. Any person interested in the transitional coaching authorization shall submit a complete application verifying the requirements listed below. Application materials are available from the board of educational examiners online at www.boee.iowa.gov.

b. Requirements. Applicants for the transitional coaching authorization shall have completed each of the following requirements:

(1) Verification that the applicant has not completed the coursework required for a coaching authorization.

(2) Verification of an offer of a coaching position by a school or a consortium of schools that will additionally verify that:

1. No fully authorized coaching candidates were found after a diligent search,

2. The transitional coach will be supervised by a licensed athletic director, administrator, or other practitioner serving in a supervisory role during the first two weeks of employment, and

3. The supervisor will evaluate the performance of the transitional coach using an evaluation form available on the school’s website.

(3) Successful completion of an approved shortened course of training related to the code of professional rights and responsibilities, practices, and ethics specifically developed for transitional coaches.

(4) Successful completion of the child and dependent adult abuse trainings pursuant to 282—subrule 20.3(4).

(5) Successful completion of a nationally recognized concussion in youth sports training course.

(6) Verification that the applicant has attained a minimum age of 21 years.

(7) Verification of completion of the background check requirements set forth in rule 282—13.1(272).

c. Validity. The transitional coaching authorization shall be valid for no more than one year and shall be valid only in the school or consortium of schools making the offer of the coaching position.

d. Renewal. The transitional coaching authorization is nonrenewable.

e. Revocation and suspension. Criteria of professional practice and rules of the board of educational examiners shall apply to holders of a transitional coaching authorization. An ethics complaint may be filed if a practitioner begins coaching a sport without current concussion training. [ARC 0865C, IAB 7/24/13, effective 8/28/13; ARC 0866C, IAB 7/24/13, effective 8/28/13; ARC 2230C, IAB 11/11/15, effective 12/16/15; ARC 2588C, IAB 6/22/16, effective 7/27/16; ARC 2793C, IAB 11/9/16, effective 12/14/16; see Delay note at end of chapter; ARC 4634C, IAB 8/28/19, effective 10/2/19; ARC 5321C, IAB 12/16/20, effective 1/20/21; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—22.2(272) Substitute authorization. A substitute authorization allows an individual to substitute in grades PK-12 for no more than 10 consecutive days in a 30-day period in one job assignment for a regularly assigned teacher who is absent, except in the driver's education classroom. A school district administrator may file a written request with the board for an extension of the 10-day limit in one job assignment in a 30-day period on the basis of documented need and benefit to the instructional program. The executive director or appointee will review the request and provide a written decision either approving or denying the request.

22.2(1) Application process. Any person interested in the substitute authorization shall submit records of credit to the board of educational examiners for an evaluation in terms of the required courses or contact hours. Application materials are available from the office of the board of educational examiners, online at www.boee.iowa.gov or from institutions or agencies offering approved courses or contact hours. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

a. Requirements. Applicants for the substitute authorization shall meet the following requirements:

(1) Authorization program. Applicants must complete a board of educational examiners-approved substitute authorization program consisting of the following components and totaling a minimum of 15 clock hours:

1. Classroom management. This component includes an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

2. Strategies for learning. This component includes understanding and using a variety of learning strategies to encourage students' development of critical thinking, problem solving, and performance skills.

3. Diversity. This component includes understanding how students differ in their approaches to learning and creating learning opportunities that are equitable and are adaptable to diverse learners.

4. Ethics. This component includes fostering relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development and to be aware of the board's rules of professional practice and competent performance.

(2) Degree or certificate. Applicants must have achieved a minimum of an associate's degree or 60 semester hours of college coursework.

(3) Minimum age. Applicants must have attained a minimum age of 21 years.

(4) Background check. Applicants must complete the background check requirements set forth in rule 282—13.1(272).

b. Additional requirements. An applicant under this subrule shall be granted a substitute authorization and will not be subject to the authorization program coursework if the following additional requirements have been met:

(1) Verification of Iowa residency or, for military spouses, verification of a permanent change of military installation.

(2) Valid or expired substitute authorization in good standing from another state without pending disciplinary action, valid for a minimum of one year, exclusive of a temporary, emergency license or certificate.

c. *Validity.* The substitute authorization shall be valid for five years.

d. *Renewal.* The authorization may be renewed upon application and verification of successful completion of:

(1) Renewal units. Applicants for renewal of the substitute authorization must provide verification of a minimum of two licensure renewal units or semester hours of renewal credits.

(2) Child and dependent adult abuse trainings. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse trainings pursuant to 282—subrule 20.3(4).

22.2(2) *Revocation and suspension.* Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the substitute authorization.

22.2(3) *Approval of courses.* Each institution of higher education, private college or university, merged area school or area education agency wishing to offer the semester credit or contact hours for the substitute authorization must submit course descriptions for each offering to the board of educational examiners for approval. After initial approval, any changes by agencies or institutions in course offerings shall be filed with the board of educational examiners.

[ARC 7745B, IAB 5/6/09, effective 6/10/09; ARC 0865C, IAB 7/24/13, effective 8/28/13; ARC 1087C, IAB 10/16/13, effective 11/20/13; ARC 1720C, IAB 11/12/14, effective 12/17/14; ARC 2230C, IAB 11/11/15, effective 12/16/15; ARC 2528C, IAB 5/11/16, effective 6/15/16; ARC 3633C, IAB 2/14/18, effective 3/21/18; ARC 4634C, IAB 8/28/19, effective 10/2/19; ARC 4635C, IAB 8/28/19, effective 10/2/19; ARC 5303C, IAB 12/2/20, effective 1/6/21; see Delay note at end of chapter; ARC 5803C, IAB 7/28/21, effective 9/1/21; ARC 6126C, IAB 1/12/22, effective 2/16/22]

282—22.3(272) School business official authorization.

22.3(1) *Application for authorization.* Effective July 1, 2012, a person who is interested in a school business official authorization will be required to apply for an authorization.

22.3(2) *Responsibilities.* A school business official authorization allows an individual to perform, supervise, and be responsible for the overall financial operation of a local school district.

22.3(3) *Application process.* Any person interested in the school business official authorization shall submit records of credit to the board of educational examiners for an evaluation in terms of the required courses or contact hours. Application materials are available from the office of the board of educational examiners, online at www.boee.iowa.gov, or from institutions or agencies offering approved courses or contact hours. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

22.3(4) *Specific requirements for an initial school business official authorization.* Applicants for an initial school business official authorization shall have completed the following requirements:

a. *Education.* Applicants must have a minimum of an associate's degree in business or accounting or 60 semester hours of coursework in business or accounting of which 9 semester hours must be in accounting.

If the applicant has not completed 9 semester hours in accounting but has 6 or more semester hours in accounting, the applicant may be issued a temporary school business official authorization valid for one year.

(1) A temporary initial school business official authorization may be issued if requested by the district. A district administrator may file a written request with the executive director for an exception to the minimum content requirements on the basis of documented need and benefit to the district. The executive director will review the request and provide a written decision either approving or denying the request.

(2) If the 9 semester hours of accounting are not completed within the time allowed, the applicant will not be eligible for the initial school business official authorization.

(3) If the applicant received a temporary school business official authorization, then the initial school business official authorization shall not exceed one year.

b. *Minimum age.* Applicants must have attained a minimum age of 18 years.

c. Background check. Applicants must complete the background check requirements set forth in rule 282—13.1(272).

22.3(5) *Specific requirements for a standard school business official authorization.*

a. A standard school business official authorization will be valid for three years and may be issued to an applicant who meets the requirements set forth in subrules 22.3(3) to 22.3(5).

b. Requirements.

(1) Applicants must complete 9 semester hours or the equivalent (1 semester hour is equivalent to 15 contact hours) in an approved program in the following areas/competencies:

1. Accounting (GAAP) concepts: fund accounting, account codes, Uniform Financial Accounting.

2. Accounting cycles: budgets, payroll/benefits, purchasing/inventory, cash, receipts, disbursements, financial reporting, investments.

3. Technology: management of accounting systems, proficiency in understanding and use of systems technology and related programs.

4. Regulatory: Uniform Administrative Procedures Manual, school policies and procedures, administrative procedures, public records law, records management, school law, employment law, construction and bidding law.

5. Personal skills: effective communication and interpersonal skills, ethical conduct, information management, ability to analyze and evaluate, ability to recognize and safeguard confidential information, and accurate and timely performance.

(2) Applicants shall demonstrate completion of or competency in the following:

1. A board of educational examiners ethics program.

2. A mentoring program as described in 281—Chapter 81.

3. The promotion of the value of the school business official's fiduciary responsibility to the taxpayer.

22.3(6) *Validity.*

a. The initial school business official authorization shall be valid for two years.

b. The standard school business official authorization shall be valid for three years.

22.3(7) *Renewal.* The authorization may be renewed upon application and verification of successful completion of:

a. Renewal activities.

(1) In addition to the child and dependent adult abuse mandatory reporter training listed below, the applicant for renewal must complete 4 semester hours of credit or the equivalent contact hours (1 semester hour is equivalent to 15 contact hours) within the three-year licensure period.

(2) Failure to complete requirements for renewal will require a petition for waiver from the board.

b. Child and dependent adult abuse mandatory reporter trainings. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse mandatory reporter trainings pursuant to 282—subrule 20.3(4).

22.3(8) *Revocation and suspension.* Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the school business official authorization.

22.3(9) *Approval of courses.* Each institution of higher education, private college or university, merged area school or area education agency and professional organization that wishes to offer the semester credit hours or contact hours for the school business official authorization must submit course descriptions for each offering to the board of educational examiners for approval. After initial approval, any changes by agencies or institutions in course offerings shall be filed with the board of educational examiners.

[ARC 9572B, IAB 6/29/11, effective 8/3/11; ARC 0869C, IAB 7/24/13, effective 8/28/13; ARC 1719C, IAB 11/12/14, effective 12/17/14; ARC 2230C, IAB 11/11/15, effective 12/16/15; ARC 3196C, IAB 7/5/17, effective 8/9/17; ARC 4634C, IAB 8/28/19, effective 10/2/19; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—22.4(272) Licenses—issue dates, corrections, duplicates, and fraud.

22.4(1) *Issue date on original authorization.* An authorization is valid only from and after the date of issuance.

22.4(2) *Correcting authorization.* If an applicant notifies board staff of a typographical or clerical error on the authorization within 30 days of the date of the board's mailing of an authorization, a corrected authorization shall be issued without charge to the applicant. If notification of a typographical or clerical error is made more than 30 days after the date of the board's mailing of an authorization, a corrected authorization shall be issued upon receipt of the fee for issuance of a duplicate authorization. For purposes of this rule, typographical or clerical errors include misspellings, errors in the expiration date of an authorization, or errors in the type of authorization issued.

22.4(3) *Duplicate authorization.* Upon application and payment of the fee set out in 282—Chapter 12, a duplicate authorization shall be issued.

22.4(4) *Fraud in procurement or renewal of authorization.* Fraud in procurement or renewal of an authorization or falsifying records for authorization purposes will constitute grounds for filing a complaint with the board of educational examiners.

[ARC 9572B, IAB 6/29/11, effective 8/3/11]

282—22.5(272) Preliminary native language teaching authorization.

22.5(1) *Authorization.* The preliminary native language teaching authorization is provided to noneducators entering the education profession to teach their native language as a foreign language in grades K-6 or grades 7-12.

22.5(2) *Application process.* Any person interested in the preliminary native language teaching authorization shall submit the application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at www.boee.iowa.gov.

22.5(3) *Requirements.*

a. The applicant must have completed a baccalaureate degree through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

b. Background check. The applicant must complete the background check requirements set forth in rule 282—13.1(272).

c. The applicant must obtain a recommendation from a school district administrator verifying that the school district wishes to hire the applicant. Before the applicant is hired, the school district administrator must verify that a diligent search was completed to hire a fully licensed teacher for the position.

d. During the term of the authorization, the applicant must complete board-approved training in the following:

(1) Methods and techniques of teaching. Develop skills to use a variety of learning strategies that encourage students' development of critical thinking, problem solving, and performance skills. The methods course must include specific methods and techniques of teaching a foreign language and must be appropriate for the level of endorsement.

(2) Curriculum development. Develop an understanding of how students differ in their approaches to learning and create learning opportunities that are equitable and adaptable to diverse learners.

(3) Measurement and evaluation of programs and students. Develop skills to use a variety of authentic assessments to measure student progress.

(4) Classroom management. Develop an understanding of individual and group motivation and behavior which creates a learning environment that encourages positive social interactions, active engagement in learning, and self-motivation.

(5) Code of ethics. Develop an understanding of how to foster relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development and become aware of the board's rules of professional practice and code of ethics.

(6) Diversity training for educators. Develop an understanding of and sensitivity to the values, beliefs, lifestyles and attitudes of individuals and the diverse groups found in a pluralistic society, including preparation that contributes to the education of individuals with disabilities and the gifted and talented.

e. The applicant must be assigned a mentor by the hiring school district. The mentor must have four years of teaching experience in a related subject area.

f. Assessment of native language. The applicant must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education. The cut score may not be waived by the board.

22.5(4) *Validity.* This authorization is valid for three years. No conditional licenses may be issued to applicants holding the preliminary native language teaching authorization. No additional endorsement areas may be added.

22.5(5) *Renewal.* The authorization is nonrenewable.

22.5(6) *Conversion.* The preliminary native language teaching authorization may be converted to a native language teaching authorization. The applicant must provide official transcripts verifying the completion of the coursework required in 22.5(3) “d.”

22.5(7) *Revocation and suspension.* Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the preliminary native language teaching authorization. If a school district hires an applicant without a valid preliminary native language teaching authorization, a complaint may be filed against the teacher and the superintendent of the school district.

22.5(8) *Approval of courses.* Each institution of higher education, private college or university, community college or area education agency wishing to offer the training for the preliminary native language teaching authorization must submit course descriptions for each offering to the board of educational examiners for approval. After initial approval, any changes by agencies or institutions in course offerings shall be filed with the board of educational examiners.

[ARC 0562C, IAB 1/23/13, effective 2/27/13; ARC 2230C, IAB 11/11/15, effective 12/16/15; ARC 3196C, IAB 7/5/17, effective 8/9/17; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—22.6(272) Native language teaching authorization.

22.6(1) *Authorization.* The native language teaching authorization allows an individual to teach the individual’s native language as a foreign language in grades K-8 or grades 5-12.

22.6(2) *Application process.* Any person interested in the native language teaching authorization shall submit an application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at www.boee.iowa.gov.

22.6(3) *Requirements.* Applicants must:

a. Hold a preliminary native language teaching authorization and meet the conversion requirements for the native language teaching authorization, or

b. Hold an Iowa teaching license and provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education. The cut score may not be waived by the board. Applicants who hold an Iowa teaching license must also obtain a recommendation from a school district administrator verifying that the school district wishes to hire the applicant. Before the applicant is hired, the school district administrator must verify that a diligent search was completed to hire a fully licensed teacher with the proper endorsement for the position.

22.6(4) *Validity.* This authorization is valid for five years. No Class B licenses may be issued to an applicant holding the native language teaching authorization unless a teaching license is additionally obtained. No additional endorsement areas may be added to the native language teaching authorization.

22.6(5) *Renewal.*

a. Applicants must meet the renewal requirements set forth in rule 282—20.3(272) and 282—subrule 20.5(2).

b. A one-year extension may be issued if all requirements for the renewal of the native language teaching authorization have not been met. This one-year extension is not renewable.

22.6(6) *Revocation and suspension.* Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the native language teaching authorization. If a school district hires an applicant without the proper licensure or endorsement, a complaint may be filed.

[ARC 1721C, IAB 11/12/14, effective 12/17/14]

282—22.7(272) School administration manager authorization.

22.7(1) *Application for authorization.* Effective July 1, 2014, a person who is interested in a school administration manager authorization will be required to apply for an authorization. The following persons must obtain an authorization:

- a.* A Model 1 SAM, a person who is hired to be a full-time SAM and who is authorized to assume the responsibilities of a SAM;
- b.* A Model 2 SAM, a person whose position in the school is reconfigured to include the responsibilities of being a SAM and is authorized as a SAM; and
- c.* A Model 3 SAM, a person who is a secretary/administrative assistant and is also authorized as a SAM.

22.7(2) *Responsibilities.* A school administration manager authorization allows an individual to assist a school administrator in performing noninstructional, administrative-type duties.

22.7(3) *Application process.* Any person interested in the school administration manager authorization shall submit to the board of educational examiners an application which includes a written verification of employment from a school district administrator. Application materials are available from the office of the board of educational examiners online at www.boee.iowa.gov.

22.7(4) *Specific requirements for an initial school administration manager authorization.* Applicants for an initial school administration manager authorization shall have completed the following requirements:

- a. Education.* Applicants must hold a high school degree or general equivalency diploma.
- b. Minimum age.* Applicants must have attained a minimum age of 18 years.
- c. Background check.* Applicants must complete the background check requirements set forth in rule 282—13.1(272).

22.7(5) *Specific requirements for a standard school administration manager authorization.* The initial school administration manager authorization shall be converted to the standard school administration manager authorization provided the following requirements are met.

a. Training. A school administration manager shall attend an approved training program at the onset of the individual's hire as a school administration manager. The training for school administration managers is set forth in 281—subrule 82.7(2).

b. Experience. An applicant shall complete one year of experience as a school administration manager in an Iowa school. The supervising administrator shall verify this experience and the applicant's completion of the required competencies.

c. Competencies. Applicants shall demonstrate completion of or competency in the following:

(1) Each school administration manager shall demonstrate competence in technology appropriate to the school administration manager position. The school administration manager will:

- 1. Become proficient in the use of the approved time-tracking software tool;
- 2. Schedule the administrator's time using the approved software, update and reconcile the calendar daily, and attempt to pre-calendar the administrator at or above the administrator's goal; and
- 3. Regularly schedule, review, and reflect with the administrator on the graphs and data provided through the software.

(2) Each school administration manager shall demonstrate appropriate personal skills. The school administration manager:

- 1. Is an effective communicator with all stakeholders, including but not limited to colleagues, community members, parents, and students;
 - 2. Works effectively with employees, students, and stakeholders.
 - 3. Maintains confidentiality when dealing with student, parent, and staff issues;
 - 4. Clearly understands the administrator's philosophy of behavior expectations and consequences;
- and
- 5. Maintains an environment of mutual respect, rapport, and fairness.

22.7(6) *Validity.*

- a.* The initial school administration manager authorization shall be valid for three years.

b. The standard school administration manager authorization shall be valid for five years.

22.7(7) *Renewal.*

a. The initial school administration manager authorization may be renewed once if the applicant has not previously had employment as a school administration manager but can at the time of application provide evidence of employment as a school administration manager.

b. The standard school administration manager authorization may be renewed upon application and verification of successful completion of the following:

(1) *Renewal activities.* The applicant for renewal must complete three semester hours of credit through authorized SAM training or online training courses approved by the board of educational examiners in collaboration with the department of education.

(2) *Child and dependent adult abuse mandatory reporter trainings.* Every renewal applicant must submit documentation of completion of the child and dependent adult abuse mandatory reporter trainings pursuant to 282—subrule 20.3(4).

22.7(8) *Extension.* A one-year extension of the school administration manager authorization may be issued if the applicant does not meet the renewal requirements. The applicant must secure the signature of the superintendent or designee before the extension will be issued.

22.7(9) *Revocation and suspension.* Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the school administration manager authorization.

22.7(10) *Approval of courses.* Each institution of higher education, private college or university, community college, area education agency and professional organization that wishes to offer the semester credit hours for the school administration manager authorization must submit course descriptions for each offering to the board of educational examiners for approval. After initial approval, any changes by agencies or institutions in course offerings shall be filed with the board of educational examiners.

[ARC 1086C, IAB 10/16/13, effective 11/20/13; ARC 1542C, IAB 7/23/14, effective 8/27/14; ARC 1721C, IAB 11/12/14, effective 12/17/14; ARC 2230C, IAB 11/11/15, effective 12/16/15; ARC 4634C, IAB 8/28/19, effective 10/2/19]

282—22.8(272) iJAG authorization.

22.8(1) *Authorization.* The Iowa jobs for America's graduates (iJAG) authorization is provided to noneducators entering the education profession to teach iJAG coursework in grades 7-12.

22.8(2) *Application process.* Any person interested in the iJAG authorization shall submit the application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at www.boee.iowa.gov.

22.8(3) *Requirements.*

a. The applicant must have completed a baccalaureate degree.

b. *Background check.* The applicant must complete the background check requirements set forth in rule 282—13.1(272).

c. The applicant must have completed a board of educational examiners-approved iJAG training program consisting of the following components and totaling a minimum of 40 clock hours annually:

(1) *Instructional methods.* Develop skills to effectively deliver project-based instruction in the iJAG core competencies.

(2) *Curriculum.* Develop skills to effectively develop curriculum, projects and other educational opportunities consistent with the goals of iJAG.

(3) *Measurement and evaluation of programs and students.* Analyze student data, administer testing, and monitor the following: basic skills, individualized development plans, attendance, graduation requirements, and course enrollment.

(4) *Code of ethics.* Develop an understanding of how to foster relationships with parents, students, school colleagues, and organizations in the larger community to support students' learning and development and become aware of the board's rules of professional practice and code of ethics.

(5) *Diversity training for educators.* Develop an understanding of and sensitivity to the values, beliefs, lifestyles and attitudes of individuals and the diverse groups found in a pluralistic society,

including preparation that contributes to the education of individuals with disabilities and the gifted and talented.

d. The applicant must obtain a recommendation from an iJAG administrator verifying that the organization wishes to hire the applicant.

e. The applicant must be assigned a mentor by the hiring school district. The mentor must have four years of teaching experience.

22.8(4) *Validity.* This authorization is valid for five years. No Class B license or license based on administrative decision may be issued to an applicant holding the iJAG authorization unless a teaching license is additionally obtained. No additional endorsement areas may be added to the iJAG authorization.

22.8(5) *Renewal.* An applicant for renewal of the iJAG authorization must provide verification of completion of the following:

a. Required iJAG training as verified through an iJAG administrator.

b. Child and dependent adult abuse training as stated in 282—subrule 20.3(4).

22.8(6) *Revocation and suspension.* Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holder of the iJAG authorization.

[ARC 1322C, IAB 2/19/14, effective 3/26/14; ARC 1721C, IAB 11/12/14, effective 12/17/14; ARC 2230C, IAB 11/11/15, effective 12/16/15]

282—22.9(272) Requirements for the career and technical secondary authorization.

22.9(1) *Authorization.* This authorization is provided to noneducators entering the education profession to instruct in occupations and specialty fields that are recognized in career and technical service areas and career cluster areas.

22.9(2) *Application process.* Any person interested in the career and technical secondary authorization shall submit the application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at www.boee.iowa.gov. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

22.9(3) *Specific requirements for the initial career and technical secondary authorization.*

a. The applicant must meet the background check requirements for licensure set forth in rule 282—13.1(272).

b. The applicant must obtain a recommendation from a school district administrator verifying that the school district wishes to hire the applicant.

c. Applicants shall meet one of the following qualifications:

(1) 6,000 hours of recent and relevant experience;

(2) 4,000 hours of recent and relevant experience if the applicant holds a baccalaureate degree;

(3) 3,000 hours of recent and relevant experience if the applicant holds an associate's degree in the teaching endorsement area sought, if such a degree is considered terminal for that field of instruction;

(4) Hold a baccalaureate or graduate degree or closely related degree in the teaching endorsement area sought; or

(5) Hold a baccalaureate degree in any area of study if at least 18 of the credit hours were completed in the teaching endorsement area sought.

Recent and relevant experience shall have been accrued within the ten years prior to the date of application. Experience that does not meet these criteria may be considered at the discretion of the executive director. In subjects for which state registration, certification or licensure is required, the applicant must hold the appropriate license, registration or certificate before the initial career and technical secondary authorization or the career and technical secondary authorization will be issued.

d. The applicant must provide documentation of completion of a code of professional conduct and ethics training approved by the board of educational examiners.

e. Coursework requirements.

(1) Applicants must commit to complete the following requirements within the term of the initial authorization. Coursework must be completed for semester hour credit.

1. Coursework in the methods and techniques of career and technical education.
2. Coursework in course and curriculum development.
3. Coursework in the measurement and evaluation of programs and students.
4. An approved human relations course.
5. Coursework in the instruction of exceptional learners to include the education of individuals with disabilities and the gifted and talented.

(2) Applicants who believe that their previous college coursework meets the coursework requirements in 22.9(3)“e”(1) may have the specific requirements waived. Transcripts or other supporting data should be provided to a teacher educator at one of the institutions which has an approved teacher education program. The results of the competency determination shall be forwarded with recommendations to the board of educational examiners. Board personnel will make final determination as to the competencies mastered and cite coursework which yet needs to be completed, if any.

22.9(4) *Validity—initial authorization.* The initial career and technical secondary authorization is valid for three years.

22.9(5) *Renewal.* The initial career and technical secondary authorization may be renewed once if the candidate can demonstrate that coursework progress has been made.

22.9(6) *Conversion.* The initial career and technical secondary authorization may be converted to a career and technical secondary authorization if the applicant has met the following:

- a. Completion of the required coursework set forth in paragraph 22.9(3)“e.”
- b. Documentation of completion of a code of professional conduct and ethics training approved by the board of educational examiners. The training must be completed after the issuance of the initial authorization and no more than three years prior to the date of application.

22.9(7) *Specific requirements for the career and technical secondary authorization.*

- a. This authorization is valid for five years.
- b. An applicant for this authorization must first meet the requirements for the initial career and technical secondary authorization.
- c. Renewal requirements for the career and technical secondary authorization. Applicants for renewal must meet the requirements set forth in 282—subrule 20.5(1) and 282—paragraphs 20.5(2)“a” to “d.”

22.9(8) *Revocation and suspension.* Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the initial career and technical secondary authorization or the career and technical secondary authorization. If a school district hires an applicant without a valid license or authorization, a complaint may be filed against the teacher and the superintendent of the school district.

[ARC 2015C, IAB 6/10/15, effective 7/15/15; ARC 3633C, IAB 2/14/18, effective 3/21/18; ARC 5323C, IAB 12/16/20, effective 1/20/21; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—22.10(272) Activities administration authorization. An activities administration authorization allows an individual to administer any pupil activity program in a K-12 school setting.

22.10(1) *Application process.* Any person interested in the activities administration authorization shall submit an application and records of credit to the board of educational examiners for an evaluation of the required courses or contact hours. Application materials are available from the office of the board of educational examiners online at www.boee.iowa.gov. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education.

a. *Requirements.* Applicants for the activities administration authorization shall meet the following requirements:

- (1) Degree. A baccalaureate degree or higher in athletic administration or related field is required.

(2) Credit hours. Applicants must complete credit hours or courses offered by the Leadership Training Institute (LTI) from the National Interscholastic Athletic Administrators Association in the following areas:

1. Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of risk management, Title IX, sexual harassment, hazing, Americans with Disabilities Act (ADA), and employment law as they pertain to the role of the activities administrator.

2. Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of activities administration foundations including philosophy, leadership, professional programs and activities administration principles, strategies and methods.

3. Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of the role of the activities director in supporting and developing sports medicine programs, management of athletic player equipment, concussion assessment and proper fitting of athletic protective equipment, and sports field safety.

4. Successful completion of 1 semester credit hour or LTI course relating to knowledge and understanding of the techniques and theory of coaching concepts and strategies for interscholastic budget and concepts and strategies for interscholastic fundraising.

5. Successful completion of 1 semester credit hour or LTI course, approved by the board, relating to the assessment and evaluation of interscholastic athletic programs and personnel, dealing with challenging personalities, and administration of professional growth programs for interscholastic personnel.

6. Successful completion of the concussion training approved by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union.

- b. *Minimum age.* Applicants must have attained a minimum age of 21 years.

- c. *Background check.* Applicants must complete the background check requirements set forth in rule 282—13.1(272).

22.10(2) Validity. The activities administration authorization shall be valid for five years.

22.10(3) Renewal.

- a. The authorization may be renewed upon application and verification of successful completion of the following renewal activities:

- (1) Applicants for renewal of an activities administration authorization must complete one of the following professional development options:

1. Document attendance at one state IHSADA convention and one LTI course relating to the knowledge and understanding of professional ethics and legal responsibilities of activities administrators.

2. Complete three LTI courses.

3. Complete 2 semester hours of college credit.

4. Complete 2 licensure renewal credits from an approved provider.

- (2) Applicants for renewal of an activities administration authorization must complete child and dependent adult abuse training as stated in 282—subrule 20.3(4).

- b. A one-year extension of the applicant's activities administration authorization may be issued if all requirements for the renewal of the activities administrator authorization have not been met. The one-year extension is nonrenewable.

22.10(4) Revocation and suspension. Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the activities administration authorization. [ARC 1718C, IAB 11/12/14, effective 12/17/14; ARC 2230C, IAB 11/11/15, effective 12/16/15; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—22.11(272) Extension. For authorizations established in this chapter, a one-year extension may be issued if the applicant does not meet the requirements for authorization conversion or renewal. The applicant shall secure the signature of the superintendent or designee of the applicant's employer and shall submit all required materials before the extension will be issued. This one-year extension is nonrenewable.

This rule is intended to implement Iowa Code section 272.31.
[ARC 2121C, IAB 9/2/15, effective 10/7/15]

282—22.12(272) Orientation and mobility authorization.

22.12(1) *Authorization.* The holder of this authorization may teach pupils with a visual impairment (see Iowa Code section 256B.2), including those pupils who are deaf-blind.

22.12(2) *Initial orientation and mobility authorization.* The initial authorization is valid for three years. Degrees and semester hour credits shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education. An applicant must:

- a. Hold a baccalaureate or master's degree from an approved state program in orientation and mobility or equivalent coursework.
- b. Have completed an approved human relations component.
- c. Have completed the exceptional learner program, which must include preparation that contributes to the education of students with disabilities and students who are gifted and talented.
- d. Have completed a minimum of 21 semester credit hours in the following areas:
 - (1) Medical aspects of blindness and visual impairment, including sensory motor.
 - (2) Psychosocial aspects of blindness and visual impairment.
 - (3) Child development.
 - (4) Concept development.
 - (5) History of orientation and mobility.
 - (6) Foundations of orientation and mobility.
 - (7) Orientation and mobility instructional methods and assessments.
 - (8) Techniques of orientation and mobility.
 - (9) Research or evidence-based practices in orientation and mobility.
 - (10) Professional issues in orientation and mobility, including legal issues.
- e. Have completed at least 350 hours of fieldwork and training under the supervision of the university program.
- f. Have completed the background check requirements set forth in rule 282—13.1(272).

22.12(3) *Standard orientation and mobility license.* An applicant must:

- a. Complete the requirements set forth in subrule 22.12(2).
- b. Verify successful completion of a three-year probationary period.

22.12(4) *Renewal of orientation and mobility license.* Applicants must meet the renewal requirements set forth in rule 282—20.3(272) and 282—subrule 20.5(2).

22.12(5) *Exception.* An orientation and mobility specialist is not eligible for any administrator license in either general education or special education.

[ARC 5322C, IAB 12/16/20, effective 1/20/21; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—22.13(272) Charter school administrator authorization.

22.13(1) *Authorization.* The charter school administrator authorization is only valid for service or employment as a charter school administrator.

22.13(2) *Application process.* Any person interested in the charter school administrator authorization shall submit an application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at www.boee.iowa.gov.

22.13(3) *Specific requirements for the initial charter school administrator authorization.*

- a. The applicant must complete the background check requirements set forth in rule 282—13.1(272).
- b. The applicant must obtain a recommendation from an Iowa charter school governing board verifying that the organization wishes to hire the applicant as a charter school administrator.
- c. The applicant must provide verification of completion of child and dependent adult abuse trainings as stated in 282—subrule 20.3(4).

22.13(4) *Validity—initial authorization.* The initial charter school administrator authorization is valid for one year. No Class B license or license based on executive director decision may be issued to an applicant holding the initial charter school administrator authorization. No additional endorsement

areas may be added to the initial charter school administrator authorization, with the exception of evaluator approval.

22.13(5) *Renewal.* The initial charter school administrator authorization may be renewed once.

22.13(6) *Conversion.* The initial charter school administrator authorization may be converted to a charter school administrator authorization if the applicant has met the following:

a. Completion of an approved code of professional conduct and ethics training. The training must be completed after the issuance of the initial authorization and no more than three years prior to the date of application.

b. Completion of an approved evaluator course.

c. Recommendation from an Iowa charter school governing board verifying that the organization wishes to retain the applicant as a charter school administrator.

22.13(7) *Specific requirements for the charter school administrator authorization.*

a. The charter school administrator authorization is valid for five years. No Class B license or license based on executive director decision may be issued to an applicant holding the charter school administrator authorization. No additional endorsement areas may be added to the charter school administrator authorization, with the exception of evaluator approval.

b. An applicant for this authorization must first meet the requirements for the initial charter school administrator authorization.

c. An applicant for renewal of the charter school administrator authorization must provide verification of completion of child and dependent adult abuse trainings as stated in 282—subrule 20.3(4).

22.13(8) *Revocation and suspension.* Criteria of the professional practice and rules of the board of educational examiners shall be applicable to holders of the initial charter school administrator authorization and charter school administrator authorization.

[ARC 6125C, IAB 1/12/22, effective 2/16/22]

These rules are intended to implement Iowa Code chapter 272.

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- ¹ December 14, 2016, effective date of 22.1(2) "a"(7) and 22.1(4) "a"(4) [ARC 2793C, Item 2] delayed until the adjournment of the 2017 General Assembly by the Administrative Rules Review Committee at its meeting held December 13, 2016.
- ² January 6, 2021, effective date of 22.2 [ARC 5303C, Item 2] delayed until the adjournment of the 2021 session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 2020.

CHAPTER 27 ISSUANCE OF PROFESSIONAL SERVICE LICENSES

282—27.1(272) Professional service license. A professional service licensee is an individual prepared to provide professional services in Iowa schools but whose preparation has not required completion of the teacher preparation coursework set forth in rule 281—79.15(256). Degrees and coursework shall be completed through a college or university accredited by an institutional accrediting agency as recognized by the U.S. Department of Education. The professional service license may be issued in the following areas but does not permit service as a teacher:

1. School counselor.
2. School psychologist.
3. Speech-language pathologist.
4. Supervisor of special education (support).
5. Director of special education of an area education agency.
6. School social worker.
7. School audiologist.

[ARC 7980B, IAB 7/29/09, effective 9/2/09; ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 3633C, IAB 2/14/18, effective 3/21/18; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—27.2(272) Requirements for a professional service license.

27.2(1) Initial professional service license. An initial professional service license valid for a minimum of two years with an expiration date of June 30 may be issued to an applicant for licensure to serve as a school audiologist, school psychologist, school social worker, speech-language pathologist, supervisor of special education (support), director of special education of an area education agency, or school counselor who:

- a. Has a master's degree in a recognized professional educational service area.
- b. Has completed a state-approved program which meets the requirements for an endorsement in a professional educational service area.
- c. Has completed the requirements for one of the professional educational service area endorsements.
- d. Meets the recency requirement of 282—subparagraph 13.5(2) "b"(4).
- e. Completes the background check requirements set forth in rule 282—13.1(272).

27.2(2) Standard professional service license. A standard professional service license valid for five years may be issued to an applicant who:

- a. Completes requirements listed under 27.2(1) "a" to "d."
- b. Shows evidence of successful completion of a state-approved mentoring and induction program by meeting the Iowa standards as determined by a comprehensive evaluation and two years' successful service experience in an Iowa public school. In lieu of completion of an Iowa state-approved mentoring and induction program, the applicant must provide evidence of three years' successful service area experience in an Iowa nonpublic school or three years' successful service area experience in an out-of-state K-12 educational setting.
- c. Meets the recency requirement of 282—subparagraph 13.5(2) "b"(4).

27.2(3) Renewal. Renewal requirements for this license are set out in 282—Chapter 20.

27.2(4) Professional service exchange license.

a. For an applicant applying under rule 282—27.1(272), a two-year nonrenewable exchange license may be issued to the applicant if the applicant has met at least 75 percent of the minimum coursework requirements for licensure but has some coursework deficiencies. At any time during the term of the exchange license, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.

b. An applicant under this section shall be granted an Iowa professional service license and will not be subject to coursework deficiencies if the following additional requirements have been met:

- (1) Verification of Iowa residency, or, for military spouses, verification of a permanent change of military installation.

(2) Valid or expired equivalent license in good standing from another state without pending disciplinary action, valid for a minimum of one year, exclusive of a temporary, emergency or substitute license or certificate. Endorsements shall be granted based on comparable Iowa endorsements, and endorsement requirements may be waived in order to grant the most comparable endorsement.

27.2(5) Class G license. A nonrenewable Class G license valid for one year may be issued to an individual who must complete a school counseling practicum or internship in an approved program in preparation for the professional school counselor endorsement. The Class G license may be issued under the following limited conditions:

- a. Verification of a baccalaureate degree.
 - b. Verification from the institution that the individual is admitted and enrolled in a school counseling program.
 - c. Verification that the individual has completed the coursework and competencies required prior to the practicum or internship.
 - d. Written documentation of the requirements listed in paragraphs 27.2(5) “a” to “c,” provided by the official at the institution where the individual is completing the approved school counseling program and forwarded to the Iowa board of educational examiners with the application form for licensure.
- [ARC 7980B, IAB 7/29/09, effective 9/2/09; ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 2230C, IAB 11/11/15, effective 12/16/15; ARC 3979C, IAB 8/29/18, effective 10/3/18; ARC 5321C, IAB 12/16/20, effective 1/20/21; ARC 5803C, IAB 7/28/21, effective 9/1/21]

282—27.3(272) Specific requirements for professional service license endorsements.

27.3(1) Elementary professional school counselor.

a. *Authorization.* The holder of this endorsement has not completed the teacher preparation coursework set forth in rule 281—79.15(256) but is authorized to serve as a professional school counselor in kindergarten and grades one through eight.

b. Program requirements.

- (1) Master’s degree from an accredited institution of higher education.
- (2) Completion of an approved human relations component.
- (3) Completion of an approved exceptional learner component.

c. *Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include:

- (1) The competencies listed in 282—subparagraphs 13.28(26) “c”(1) to (11).
- (2) The teaching and counseling practicum. The candidate will complete a preservice supervised practicum and an internship that meet the requirements set forth in 282—subparagraph 13.28(26) “c”(12).

27.3(2) Secondary professional school counselor.

a. *Authorization.* The holder of this endorsement has not completed the teacher preparation coursework set forth in rule 281—79.15(256) but is authorized to serve as a professional school counselor in grades five through twelve.

b. Program requirements.

- (1) Master’s degree from an accredited institution of higher education.
- (2) Completion of an approved human relations component.
- (3) Completion of an approved exceptional learner component.

c. *Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include:

- (1) The competencies listed in 282—subparagraphs 13.28(26) “c”(1) to (11).
- (2) The teaching and counseling practicum. The candidate will complete a preservice supervised practicum and an internship that meet the requirements set forth in 282—subparagraph 13.28(26) “c”(12).

27.3(3) School psychologist.

a. *Authorization.* The holder of this endorsement is authorized to serve as a school psychologist with pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

b. Program requirements.

(1) An applicant shall have completed a program of graduate study that is currently approved (or that was approved at the time of graduation) by the National Association of School Psychologists or the American Psychological Association, or be certified as a Nationally Certified School Psychologist by the National Association of School Psychologists, in preparation for service as a school psychologist through one of the following options:

1. Completion of a master's degree with sufficient graduate semester hours beyond a baccalaureate degree to total 60; or

2. Completion of a specialist's degree of at least 60 graduate semester hours with or without completion of a terminal master's degree program; or

3. Completion of a doctoral degree program of at least 60 graduate semester hours with or without completion of a terminal master's degree program or specialist's degree program.

(2) The program shall include an approved human relations component.

(3) The program must include preparation that contributes to the education of students with disabilities and students who are gifted and talented.

c. School psychologist one-year Class A license.

(1) Requirements for a one-year Class A license. A nonrenewable Class A license valid for one year may be issued to an individual who must complete an internship or thesis as an aspect of an approved program in preparation for the school psychologist endorsement. The one-year Class A license may be issued under the following limited conditions:

1. Verification from the institution that the internship or thesis is a requirement for successful completion of the program.

2. Verification that the employment situation will be satisfactory for the internship experience.

3. Verification from the institution of the length of the approved and planned internship or the anticipated completion date of the thesis.

4. Verification of the evaluation processes for successful completion of the internship or thesis.

5. Verification that the internship or thesis is the only requirement remaining for successful completion of the approved program.

(2) Written documentation of the above requirements must be provided by the official at the institution where the individual is completing the approved school psychologist program and forwarded to the board of educational examiners with the application form for licensure.

27.3(4) Speech-language pathologist. A person who meets the requirements set forth below may be issued an endorsement. Alternatively, a person may meet the requirements for a statement of professional recognition (SPR) issued by the board of educational examiners in this area as set forth in 282—Chapter 16.

a. Authorization. The holder of this endorsement is authorized to serve as a speech-language pathologist to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

b. Program requirements.

(1) An applicant must hold a master's degree in speech pathology.

(2) Content. An applicant must have completed the requirements in speech pathology and in the professional education sequence, i.e., 20 semester hours including student teaching/internship as a school speech-language pathologist. Courses in the following areas may be recognized for fulfilling the 20-hour sequence:

1. Curriculum courses (e.g., reading, methods, curriculum development).

2. Foundations (e.g., philosophy of education, foundations of education).

3. Educational measurements (e.g., school finance, tests and measurements, measures and evaluation of instruction).

4. Educational psychology (e.g., educational psychology, educational psychology measures, principles of behavior modification).

5. Courses in special education (e.g., introduction to special education, learning disabilities).

6. Child development courses (e.g., human growth and development, principles and theories of child development, history and theories of early childhood education).

NOTE: General education courses (e.g., introduction to psychology, sociology, history, literature, humanities) will not be credited toward fulfillment of the required 20 hours.

(3) The applicant must complete an approved human relations component.

(4) The program must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

27.3(5) Professional service administrator.

a. *Authorization.* The holder of this endorsement is authorized to serve as a supervisor of special education support programs. However, an individual holding a statement of professional recognition is not eligible for the professional service administrator endorsement.

b. *Program requirements.*

(1) An applicant must hold a master's degree in preparation for school psychology, speech/language pathology, audiology (or education of students who are deaf or hard of hearing), or social work.

(2) Content. The program shall include a minimum of 16 graduate semester hours to specifically include the following:

1. Consultation process in special or regular education.
2. Current issues in special education administration including school law/special education law.
3. Program evaluation.
4. Educational leadership.
5. Administration and supervision of special education.
6. Practicum: Special education administration. NOTE: This requirement may be waived based on two years of experience as a special education administrator.
7. School personnel administration.
8. Evaluator approval component.

c. *Other.* The applicant must:

(1) Have four years of support service in a school setting with special education students in the specific discipline area desired.

(2) Meet the practitioner licensure requirements of one of the following endorsements:

1. School audiologist (or deaf or hard of hearing at K-8 and 5-12).
2. School psychologist.
3. School social worker.
4. Speech-language pathologist.

27.3(6) Director of special education of an area education agency.

a. *Authorization.* The holder of this endorsement is authorized to serve as a director of special education of an area education agency. Assistant directors are also required to hold this endorsement. However, an individual holding a statement of professional recognition is not eligible for the director of special education of an area education agency endorsement.

b. *Program requirements.*

(1) Degree—specialist or its equivalent. An applicant must hold a master's degree plus at least 32 semester hours of planned graduate study in administration or special education beyond the master's degree.

(2) Endorsement. An applicant must hold or meet the requirements for one of the following:

1. PK-12 principal and PK-12 supervisor of special education (see rule 282—18.9(272));
2. Supervisor of special education—instructional (see rule 282—15.5(272));
3. Professional service administrator (see subrule 27.3(5)); or
4. A letter of authorization for special education supervisor issued prior to October 1, 1988.

(3) Content. An applicant must have completed a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements to include the following:

1. Knowledge of federal, state and local fiscal policies related to education.
2. Knowledge of school plant/facility planning.

3. Knowledge of human resources management, including recruitment, personnel assistance and development, evaluations, and negotiations.

4. Knowledge of models, theories and philosophies that provide the basis for educational systems.

5. Knowledge of current issues in special education.

6. Knowledge of special education school law and legislative and public policy issues affecting children and families.

7. Knowledge of the powers and duties of the director of special education of an area education agency as delineated in Iowa Code section 273.5.

8. Practicum in administration and supervision of special education programs.

(4) Experience. An applicant must have three years of administrative experience as a PK-12 principal or PK-12 supervisor of special education.

(5) Competencies. Through completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements, the director of special education accomplishes the following:

1. Facilitates the development, articulation, implementation and stewardship of a vision of learning that is shared and supported by the school community.

2. Advocates, nurtures and sustains a school culture and instructional program conducive to student learning and staff professional growth.

3. Ensures management of the organization, operations and resources for a safe, efficient and effective learning environment.

4. Collaborates with educational staff, families and community members; responds to diverse community interests and needs; and mobilizes community resources.

5. Acts with integrity and fairness and in an ethical manner.

6. Understands, responds to, and influences the larger political, social, economic, legal, and cultural context.

7. Collaborates and assists in supporting integrated work of the entire agency.

c. *Other.*

(1) Option 1: Instructional. An applicant must meet the requirements for one special education teaching endorsement and have three years of teaching experience in special education.

(2) Option 2: Support. An applicant must meet the practitioner licensure requirements for one of the following endorsements and have three years of experience as a:

1. School audiologist;

2. School psychologist;

3. School social worker; or

4. Speech-language pathologist.

27.3(7) School social worker. A person who meets the requirements set forth below may be issued an endorsement. Alternatively, a person may meet the requirements for a statement of professional recognition (SPR) issued by the board of educational examiners in this area as set forth in 282—Chapter 16.

a. *Authorization.* An individual who meets the requirements of 282—subrule 16.6(2) is authorized to serve as a school social worker to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

b. *Endorsement requirements.* An applicant must hold a master's degree in social work from an accredited school of social work to include a minimum of 20 semester hours of coursework (including practicum experience) which demonstrates skills, knowledge, and competencies in the following areas:

(1) Social work.

1. Assessment (e.g., social, emotional, behavioral, and familial).

2. Intervention (e.g., individual, group, and family counseling).

3. Related studies (e.g., community resource coordination, multidiscipline teaming, organizational behavior, and research).

(2) Education.

1. General education (e.g., school law, foundations of education, methods, psychoeducational measurement, behavior management, child development).

2. Special education (e.g., exceptional children, psychoeducational measurement, behavior management, special education regulations, counseling school-age children).

(3) Practicum experience. A practicum experience in a school setting under the supervision of an experienced school social work practitioner is required. The practicum shall include experiences that lead to the development of professional identity and the disciplined use of self. These experiences will include: assessment, direct services to children and families, consultation, staffing, community liaison and documentation. If a person has served two years as a school social worker, the practicum experience can be waived.

(4) Completion of an approved human relations component is required.

(5) The program must include preparation that contributes to the education of students with disabilities and students who are gifted and talented.

27.3(8) School audiologist. A person who meets the requirements set forth below may be issued an endorsement. Alternatively, a person may meet the requirements for a statement of professional recognition (SPR) issued by the board of educational examiners in this area as set forth in 282—Chapter 16.

a. Authorization. The holder of this endorsement is authorized to serve as a school audiologist to pupils from birth to age 21 who are deaf or hard of hearing (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

b. Program requirements.

(1) An applicant must hold a master's degree in audiology.

(2) Content. An applicant must complete the requirements in audiology and in the professional education sequence, i.e., 20 semester hours including student teaching/internship as a school audiologist. Courses in the following areas may be recognized for fulfilling the 20-hour sequence:

1. Curriculum courses (e.g., reading, methods, curriculum development).

2. Foundations (e.g., philosophy of education, foundations of education).

3. Educational measurements (e.g., school finance, tests and measurements, measures and evaluation of instruction).

4. Educational psychology (e.g., educational psychology, educational psychology measures, principles of behavior modification).

5. Courses in special education (e.g., introduction to special education, learning disabilities).

6. Child development courses (e.g., human growth and development, principles and theories of child development, history of early childhood education).

NOTE: General education courses (e.g., introduction to psychology, sociology, history, literature, humanities) will not be credited toward fulfillment of the required 20 hours.

(3) An applicant must complete an approved human relations component.

(4) The program must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

[ARC 7980B, IAB 7/29/09, effective 9/2/09; ARC 9074B, IAB 9/8/10, effective 10/13/10; ARC 9076B, IAB 9/8/10, effective 10/13/10; ARC 1328C, IAB 2/19/14, effective 3/26/14; ARC 2016C, IAB 6/10/15, effective 7/15/15; ARC 2397C, IAB 2/17/16, effective 3/23/16; ARC 5322C, IAB 12/16/20, effective 1/20/21; ARC 5802C, IAB 7/28/21, effective 9/1/21]

282—27.4(272) Specific renewal requirements for the initial professional service license.

27.4(1) In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

27.4(2) If a person meets all requirements for the standard professional service license except for the requirements in paragraph 27.2(2) “b,” the initial professional service license may be renewed upon written request. A second renewal may be granted if the holder of the initial license has not met the requirements in paragraph 27.2(2) “b” and if the license holder can provide evidence of employment which will be acceptable for the experience requirement.

[ARC 8609B, IAB 3/10/10, effective 4/14/10]

282—27.5(272) Specific renewal requirements for the standard professional service license.

27.5(1) In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth in rule 282—20.3(272).

27.5(2) Four units are needed for renewal. For an applicant who also holds a specialist's or doctor's degree, two units are needed for renewal. These units may be earned in any combination listed below:

a. One unit may be earned for each semester hour of graduate credit which leads toward the completion of a planned master's, specialist's, or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

d. One unit may be earned upon completion of each licensure renewal course or activity approved pursuant to guidelines established by the board of educational examiners.

e. Two units may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator, or one unit if the applicant holds a specialist's or doctor's degree.

[ARC 8609B, IAB 3/10/10, effective 4/14/10; ARC 3829C, IAB 6/6/18, effective 7/11/18; ARC 5803C, IAB 7/28/21, effective 9/1/21; ARC 6127C, IAB 1/12/22, effective 2/16/22]

282—27.6(272) Specific requirements for a Class B license. A Class B license, which is valid for two years and which is nonrenewable, may be issued to an individual under the following conditions:

27.6(1) *Endorsement in progress.* The individual has a valid professional service license and one or more professional service endorsements, but is seeking to obtain some other professional service endorsement. A Class B license may be issued if requested by an employer and if the individual seeking to obtain some other professional service endorsement has completed at least two-thirds of the requirements, or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for the endorsement.

27.6(2) *Request for exception.* A school district administrator may file a written request with the board for an exception to the minimum content requirements on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

27.6(3) *Expiration.* This license will expire on June 30 of the fiscal year in which it was issued plus one year.

[ARC 8959B, IAB 7/28/10, effective 9/1/10]

282—27.7(272) Timely renewal. A license may only be renewed less than one year before it expires.

[ARC 9452B, IAB 4/6/11, effective 5/11/11]

These rules are intended to implement Iowa Code chapter 272.

[Filed ARC 7980B (Notice ARC 7743B, IAB 5/6/09), IAB 7/29/09, effective 9/2/09]

[Filed ARC 8609B (Notice ARC 8410B, IAB 12/30/09), IAB 3/10/10, effective 4/14/10]

[Filed ARC 8959B (Notice ARC 8689B, IAB 4/7/10), IAB 7/28/10, effective 9/1/10]

[Filed ARC 9074B (Notice ARC 8829B, IAB 6/2/10), IAB 9/8/10, effective 10/13/10]

[Filed ARC 9076B (Notice ARC 8831B, IAB 6/2/10), IAB 9/8/10, effective 10/13/10]

[Filed ARC 9452B (Notice ARC 9301B, IAB 12/29/10), IAB 4/6/11, effective 5/11/11]

[Filed ARC 1328C (Notice ARC 1236C, IAB 12/11/13), IAB 2/19/14, effective 3/26/14]

[Filed ARC 2016C (Notice ARC 1918C, IAB 3/18/15), IAB 6/10/15, effective 7/15/15]

[Filed ARC 2230C (Notice ARC 2130C, IAB 9/2/15), IAB 11/11/15, effective 12/16/15]

[Filed ARC 2397C (Notice ARC 2237C, IAB 11/11/15), IAB 2/17/16, effective 3/23/16]

[Filed ARC 3633C (Notice ARC 3471C, IAB 12/6/17), IAB 2/14/18, effective 3/21/18]

[Filed ARC 3829C (Notice ARC 3710C, IAB 3/28/18), IAB 6/6/18, effective 7/11/18]

[Filed ARC 3979C (Notice ARC 3827C, IAB 6/6/18), IAB 8/29/18, effective 10/3/18]

[Notice of Intended Action ARC 5212C, IAB 12/16/20]

[Notice of Intended Action ARC 5216C, IAB 12/16/20]

[Filed ARC 5321C, IAB 12/16/20, effective 1/20/21]

[Filed ARC 5322C, IAB 12/16/20, effective 1/20/21]

[Filed ARC 5802C (Notice ARC 5666C, IAB 6/2/21), IAB 7/28/21, effective 9/1/21]

[Filed ARC 5803C (Notice ARC 5665C, IAB 6/2/21), IAB 7/28/21, effective 9/1/21]

[Filed ARC 6127C (Notice ARC 5935C, IAB 10/6/21), IAB 1/12/22, effective 2/16/22]

LAW ENFORCEMENT ACADEMY[501]

[Prior to 1971 IDR, see Dept. of Public Safety]
[Prior to 3/11/87, Law Enforcement Academy[550]]

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CHAPTER 1
ORGANIZATION AND ADMINISTRATION

[Appeared as rules 3.1, 4.1, 5.1 and ch 6 prior to 4/10/85]

[Prior to 3/11/87, Law Enforcement Academy[550] Ch 1]

501—1.1(80B) Definitions. In regards to the definitions as used in the rules of the law enforcement academy the following definitions apply, unless the context otherwise requires:

“*Academy*” refers to the Iowa law enforcement academy.

“*Academy council*” means the Iowa law enforcement academy council.

“*Act*” means the Iowa Administrative Procedure Act.

“*Applicant*” means all individuals seeking an entry level position as a law enforcement officer. This shall not include individuals who are being promoted within a department.

“*Certificate*” means the document issued to a law enforcement officer when documentation has established compliance with the minimum hiring standards and successful completion of the training requirements.

“*Certification*” means the issuing of a certificate to a law enforcement officer upon documentation that the officer has been employed and trained in compliance with the established minimum standards.

“*Change in status*” means leaving an agency for any reason, including termination, voluntary resignation, demotion, promotion, suspension, or any other change in position or title.

“*Contested case*” means a proceeding in which the legal rights of a party to continue to be certified as a law enforcement officer in the state of Iowa are determined by the council or its designee after an opportunity for an evidentiary hearing.

“*Continuing education*” means training approved by the Iowa law enforcement academy which is obtained by a certified Iowa law enforcement emergency care provider to maintain, improve, or expand relevant skills and knowledge and to satisfy renewal of certification requirements.

“*Convicted*” or “*conviction*” means a finding of guilt, a plea of guilty, a deferred judgment, a deferred or suspended sentence, and an adjudication of delinquency as a juvenile.

“*Council*” refers to the Iowa law enforcement academy council.

“*Director*” refers to the director of the Iowa law enforcement academy.

“*Employing agency*” means any state, county, or municipal government or governmental body that employs law enforcement officers.

“*Facilities approval application form*” means the form prepared by the Iowa law enforcement academy council to be utilized in an application for approval of a regional law enforcement training facility.

“*Facility*” means a jail as defined in 201—Chapter 50 or a temporary holding facility as defined in 201—Chapter 51.

“*Felony*” means a criminal offense classified as a felony in the jurisdiction in which it was committed.

“*Final selection process*” means that process by which the final applicant for a law enforcement position is selected. This process requires, minimally, that the person to be hired shall have successfully completed the mandated psychological testing.

“*General instructors*” means peace officers, jailers, jail administrators or public safety telecommunicators instructing in subjects relevant to their profession.

“*Good cause*” means termination of employment for any of the following reasons:

1. *Gross negligence*: Where the officer’s act or failure to act creates a danger or risk to persons, property, or to the efficient operation of the department, recognizable as a gross deviation from the standard of care that a reasonable officer would observe in a similar circumstance.

2. *Insubordination*: A refusal by an employee to comply with a rule or order where the rule or order was reasonably related to the orderly, efficient, or safe operation of the employer’s business and where the employee’s refusal to comply with the rule or order constitutes breach of duties.

3. *Incompetence or gross misconduct*: In determining what constitutes “incompetence or gross misconduct,” the council may take into account sources as practices generally followed in the profession,

current teaching at law enforcement training facilities and technical reports and literature relevant to the field of law enforcement.

“Initial certification” means the law enforcement certification granted to a law enforcement officer by the Iowa law enforcement academy council pursuant to 501—3.1(80B), 3.8(80B), or 3.9(80B), Iowa Administrative Code.

“Iowa law enforcement emergency care provider” or *“ILEECP”* means an individual who is certified by the academy as an Iowa peace officer, who has successfully completed an emergency medical care provider curriculum approved by the academy, and who is currently certified by the academy as an emergency medical care provider.

“Iowa law enforcement training program” means the law enforcement academy or a law enforcement training program approved by the council to conduct ILEECP emergency medical care training.

“Jail” means any place administered by the county sheriff and designed to hold inmates for as long as lawfully required but not to exceed one year pursuant to Iowa Code chapters 356 and 356A.

“Jail administrator” means the sheriff, sheriff’s designee, or the executive head of any agency operating a jail.

“Jailer” means any person involved in the booking or supervision of inmates or detainees and meeting the requirements of rules 201—50.10(356,356A) and 50.11(356,356A) or 201—51.8(356,356A) and 51.9(356,356A).

“Jailer training program” means a jailer in-service or basic training program.

“Law enforcement experience” means experience gained by a law enforcement officer whose primary job function is the enforcement of criminal laws and the prevention and detection of crime.

“Law enforcement officer” means an officer appointed by the director of the department of natural resources; an officer appointed by the director of the Iowa law enforcement academy and sworn in for the purposes of training; a member of a police force or other agency or department of the state, county, or city regularly employed as such and who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state; and all individuals, as determined by the council, who by the nature of their duties may be required to perform the duties of a peace officer.

“Nonstate agency” means all other agencies that are not state agencies.

“Party” means each person or agency named or admitted as a party properly seeking and entitled as of right to be admitted as a party.

“Person” means any individual, corporation or association covered by the Act other than an agency.

“Pleadings” means a protest, motion, answer, reply or other document filed in a contested case proceeding.

“Presiding officer” means an administrative law judge employed by the Iowa department of inspections and appeals or the full council or a three-member panel of the council.

“Proposed decision” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the full council did not preside.

“Recommendation” means a request by an employing agency asking the council to revoke the certification of a past or present law enforcement officer.

“Regional facility director” means the administrative head or responsible official of the approved regional law enforcement training facility.

“Regional training facility” means an approved regional law enforcement training facility.

“Regular law enforcement officer” means those full-time or part-time officers who are subject to the Iowa law enforcement academy hiring, training, and certification requirements.

“Reserve peace officer” means a volunteer, nonregular, sworn member of a law enforcement agency who serves with or without compensation, has regular police powers while functioning as a law enforcement agency’s representative, and participates on a regular basis in the law enforcement agency’s activities including crime prevention and control, preservation of the peace, and enforcement of law.

“Respondent” means any individual who is charged in a complaint with violating the criteria of professional practices or the criteria of competent performance.

“Revocation” means the process by which the council withdraws an individual’s certification. A person remains under revocation until the time it can be demonstrated to the council that the grounds for revocation no longer exist and the officer’s certification is reinstated.

“Salvage vehicle theft examination” means a salvage vehicle theft examination conducted by a law enforcement officer pursuant to Iowa Code section 321.52(4) “c.”

“Salvage vehicle theft examiner” means a law enforcement officer certified by the Iowa law enforcement academy to conduct vehicle theft examinations pursuant to Iowa Code section 321.52(4) “c.”

“Serious misconduct” means improper or illegal actions taken by a law enforcement officer in connection with the officer’s official duties including but not limited to a conviction for a felony, fabrication of evidence, repeated use of excessive force, acceptance of a bribe, or the commission of fraud.

“State agency” means any department or division of state government which derives its primary funding from the state treasury.

“Student” means any individual enrolled in a training program and participating in the didactic or psychomotor portions.

“Subject matter expert” means those instructors responsible for a subject requiring a specialized academic degree, certification, licensure or experience.

“Temporary holding facility” means secure holding rooms or cells administered by a law enforcement agency where detainees may be held for a limited period of time, not to exceed 24 hours, and a reasonable time thereafter to arrange for transportation to an appropriate facility.

“Training program director” means the official responsible for a jailer training program.

“Weapon” shall mean any firearm, striking instrument or chemical agent authorized for use as a weapon by the hiring authority.

Unless otherwise specifically stated, the terms used in these rules promulgated by the council shall have the meaning defined by this chapter.

This rule is intended to implement Iowa Code sections 80B.3, 80B.11, 80B.13, 80D.7 and 321.52. [ARC 3997C, IAB 9/12/18, effective 10/17/18; ARC 5006C, IAB 3/25/20, effective 4/29/20; ARC 5572C, IAB 4/21/21, effective 5/26/21; ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—1.2(80B) Council established. The council and the academy were created by an Act of the Sixty-second General Assembly, now cited as Iowa Code chapter 80B. The general purposes for which the council and academy were established are:

1. To maximize training opportunities for law enforcement officers.
2. To coordinate training and to set standards for the law enforcement service, all of which are imperative to upgrading law enforcement to a professional status.

This rule is intended to implement Iowa Code section 80B.6.

501—1.3(80B) Administration. The administration of the Act creating the council and academy is vested in the office of the governor.

This rule is intended to implement Iowa Code section 80B.5.

501—1.4(80B) Council membership. The selection, appointment, and approval of members to the council are made as provided for in Iowa Code section 80B.6.

This rule is intended to implement Iowa Code section 80B.6.

501—1.5(80B) Council officers. The council shall select from its membership a chairperson and a vice chairperson each of whom shall serve for a term of one year and who may be reelected.

This rule is intended to implement Iowa Code section 80B.7.

501—1.6(80B) Meetings. The council shall meet at least once each quarter of each year and shall hold special meetings when called by the chairperson or, in the absence of the chairperson, by the vice chairperson, or by the chairperson upon written request of six members of the council.

1.6(1) *Order of business.* The meetings of the council shall be presided over by the chairperson or vice chairperson. Unless otherwise stipulated in these rules, Robert's Rules of Order are to be followed in conducting the business of the council.

1.6(2) *Open meetings.* All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21. Members of the public may be recognized at the discretion of the chairperson.

1.6(3) *Notice, minutes and agenda.*

a. The director shall cause advance public notice of the time and place of each meeting in accordance with Iowa Code section 21.4.

b. The director shall cause minutes of all council meetings to be kept showing the time and place, the members present, and the action taken at each meeting. The minutes will constitute the official record of all actions by the council. Minutes of each meeting will be prepared and distributed to members of the council.

c. At least one week prior to the date of a regular meeting, the director shall prepare a tentative agenda for the next meeting of the council and shall cause the distribution of the tentative agenda to the council. At least one week prior to a regular meeting, a council member may submit an item to be included on the agenda. This agenda shall also list the date, time and place of the meeting.

1.6(4) *Quorum and majority vote.* A quorum shall consist of two-thirds of the currently appointed voting members of the council. Action of the council must be approved by a simple majority of the voting members present.

1.6(5) *Information available.* All records, minutes, manuals and other information pertaining to council action shall be kept at the academy. The information shall be open for inspection to the public during normal working hours.

1.6(6) *Place of meetings.* Meetings will normally be held at the Academy, Camp Dodge, Johnston, Iowa but may be held at a different location as determined by the council.

This rule is intended to implement Iowa Code section 80B.9.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—1.7(80B) Address of council. All submissions to or requests of the council shall be made through the office of the Director, Iowa Law Enforcement Academy, P.O. Box 130, Camp Dodge, Johnston, Iowa 50131.

This rule is intended to implement Iowa Code section 80B.9.

501—1.8(80B) Emergency action. In the event of an emergency requiring prompt action by the council, the director may, with the approval of the chairperson, telephonically poll members of the council concerning the needed action. The vote of each member should be recorded and the agreement of a majority of voting members shall constitute official action by the council. Such action must be ratified at the next scheduled meeting of the council and the minutes reflect the nature of the emergency.

This rule is intended to implement Iowa Code section 80B.13(2).

501—1.9(80B) Authority of council—operational standards. The authority of the council shall be as set forth in Iowa Code section 80B.13. The director shall, subject to the review of the council, promulgate operational standards relative to the operation of the academy.

This rule is intended to implement Iowa Code section 80B.13.

501—1.10(80B) Budget submitted to comptroller. The director, with the approval of the council, shall submit to the state comptroller, annually and in such form as required by Iowa Code chapter 8, estimates of its expenditure requirements. Estimates shall include the costs of administration, maintenance, and operation, and the cost of any proposed capital improvements or additional programs.

This rule is intended to implement Iowa Code section 80B.14.

501—1.11(17A,80B) Petition for rule making. Any person or agency may file a petition for rule making with the Academy Council at the Iowa Law Enforcement Academy, Camp Dodge, P.O. Box 130, Johnston, Iowa 50131-0130.

1.11(1) *The petition.* A petition is deemed filed when it is received by the academy. The academy must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the academy with an extra copy for this purpose. The petition must be typewritten, or legibly handwritten in ink, and must substantially conform to the following form:

IOWA LAW ENFORCEMENT ACADEMY COUNCIL

Petition by (Name of Petitioner) for the (adoption,
amendment or repeal) of rules relating to (state
subject matter).

)
)
)
)

PETITION FOR RULE MAKING

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the academy council's authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided for by subrule 1.11(4).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

The academy council may deny a petition because it does not substantially conform to the required form.

1.11(2) *Briefs.* The petitioner may attach a brief to the petition in support of the action urged in the petition. The academy council or the academy staff may request a brief from the petitioner or from any other person concerning the substance of the petition.

1.11(3) *Inquiries.* Inquiries concerning the status of a petition for rule making may be made to the Academy Director, Iowa Law Enforcement Academy Council, Camp Dodge, P.O. Box 130, Johnston, Iowa 50131-0130.

1.11(4) *Academy council consideration.* Upon request by petitioner in the petition, the academy director must schedule a brief and informal meeting between the petitioner and the academy council, a member of the academy council, or a member of the staff of the academy to discuss the petition. The academy council or a member of the academy staff may request the petitioner to submit additional information or argument concerning the petition. Comments may also be solicited from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the academy council by any person.

Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the academy council shall deny the petition in writing on the merits and notify the petitioner of its action and the specific grounds for the denial, or grant the petition and notify the petitioner that it has instituted rule-making proceedings on the subject of the petition. The academy council shall submit the petition and the disposition of the petition to the administrative rules review committee. The petitioner shall be deemed notified of the denial or grant of the petition on the date when the academy council mails or delivers the required notification to the petitioner.

Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the academy council's rejection of the petition.

This rule is intended to implement Iowa Code section 17A.7.

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CHAPTER 2
MINIMUM STANDARDS FOR IOWA LAW ENFORCEMENT OFFICERS

[Appeared as Ch 1 prior to 4/10/85]

[Prior to 3/11/87, Law Enforcement Academy[550] Ch 2]

501—2.1(80B) General requirements for law enforcement officers. In no case shall any person hereafter be selected or appointed as a law enforcement officer unless the person:

2.1(1) Is a citizen of the United States and a resident of Iowa or intends to become a resident upon being employed; provided that the state residency requirement under this subrule shall not apply to employees of a city or county that has adopted an ordinance to allow employees of the city or county to reside in another state and shall not apply to an employee of a city or county that later repeals such an ordinance if the employee resides in another state at the time of the repeal. A city or county that has adopted an ordinance to allow the employees of the city or county to reside in another state shall provide a current copy of the ordinance to the Iowa law enforcement academy. Railway special agents who are approved by the commissioner of public safety as special agents of the department shall be exempt from the Iowa residency requirement.

2.1(2) Is 18 years of age at the time of appointment.

2.1(3) Has a valid driver's or chauffeur's license issued by the state of Iowa. Railway special agents who are approved by the commissioner of public safety as special agents of the department and officers who are allowed to reside in an adjacent state shall be required to possess a valid driver's or chauffeur's license of the state of residence of the officer.

2.1(4) Is not addicted to drugs or alcohol.

2.1(5) Is of good moral character as determined by a thorough background investigation including a fingerprint search conducted on local, state and national fingerprint files and has not been convicted of a felony or a crime involving moral turpitude. "Moral turpitude" is defined as an act of baseness, vileness, or depravity in the private and social duties which a person owes to another person or to society in general, contrary to the accepted and customary rule of right and duty between person and person. Moral turpitude is conduct that is contrary to justice, honesty or good morals.

a. The following nonexclusive list of acts has been found by the Iowa law enforcement academy council to involve moral turpitude:

(1) Any felony. As used in this section, the word "felony" means any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one year, but does not include any offense, other than an offense involving a firearm or explosive, classified as a misdemeanor under the laws of the state and punishable by a term of imprisonment of two years or less.

(2) A misdemeanor crime of domestic violence as defined by Iowa Code section 724.26(2) "c," or other offenses of domestic violence.

(3) An adjudication of delinquency as a juvenile based on conduct that would constitute a felony if committed by an adult.

(4) Assault or harassment.

(5) Stalking.

(6) Any offense in which a weapon was used in the commission.

(7) Income tax evasion.

(8) Perjury or its subornation.

(9) Theft, aggravated theft, fraudulent practices, robbery or burglary.

(10) Any sex crime or crime listed in Iowa Code chapter 709.

(11) Conspiracy or solicitation to commit a crime listed in this rule.

(12) Defrauding the government.

(13) Delivering, manufacturing or possessing with the intent to deliver or manufacture a controlled substance.

(14) Convictions by any other state or by the federal government under statutes substantially corresponding to the crimes listed in this rule.

(15) Any crime as an adult that resulted in the requirement of being listed on a sex offender registry.

(16) An adjudication of delinquency as a juvenile based on conduct that would constitute a crime as an adult that resulted in the requirement of being listed on a sex offender registry.

b. In determining whether to grant a waiver of subrule 2.1(5) under rule 501—16.3(17A,80B), the council shall consider in its analysis of numbered paragraph “4” of rule 501—16.3(17A,80B):

- (1) The nature and seriousness of the crime;
- (2) The time elapsed since the crime was committed;
- (3) The degree of rehabilitation which has taken place since the crime was committed;
- (4) The likelihood that the person will commit the same crime again;
- (5) The number of criminal convictions; and
- (6) Such additional factors as may in a particular case demonstrate mitigating circumstances or heightened risk to public safety.

2.1(6) Has successfully passed a physical test adopted by the Iowa law enforcement academy.

2.1(7) Is not by reason of conscience or belief opposed to the use of force, when necessary to fulfill that person’s duties.

2.1(8) Is a high school graduate with a diploma, or possesses a GED equivalency certificate.

2.1(9) Has an uncorrected vision of not less than 20/100 in both eyes, corrected to 20/20, and has color vision consistent with the occupational demands of law enforcement.

a. Passing any of the following color vision tests indicates that the applicant has color vision abilities consistent with the occupational demands of law enforcement:

- (1) Pseudoisochromatic plates tests such as but not limited to: Tokyo Medical College, Ishihara, Standard Pseudoisochromatic Plates, Dvorine, American Optical HRR Plates, American Optical.
- (2) Panel tests such as: Farnsworth Dichotomous D-15 Test or any other test designed and documented to identify extreme anomalous trichromatic, dichromatic or monochromatic color vision.

b. Color corrective lenses may not be used by an applicant during the testing process pursuant to the American College of Occupational and Environmental Medicine (ACOEM) Guidance for the Medical Evaluation of Law Enforcement Officers.

c. Individuals with extreme anomalous trichromatism or monochromasy color vision, as determined through testing, are not eligible to be hired as law enforcement officers in the state of Iowa.

2.1(10) Meets hearing standards as outlined below.

a. The person shall have normal hearing in each ear. Hearing is considered normal when, tested by an audiometer, hearing sensitivity thresholds are within 25dB measured at 500Hz, 1000Hz, 2000Hz and 3000Hz averaged together.

b. If the person does not have normal hearing as described above and any of the following (as recommended by the American Academy of Otolaryngology) conditions exist, a medical specialist’s evaluation (otologic evaluation) is required in order for the candidate to be considered for hire:

- (1) Average hearing level at 500Hz, 1000Hz, 2000Hz, and 3000Hz greater than 25dB, in either ear.
- (2) Difference in average hearing level between the better and poorer ear of:
 1. More than 15dB at 500Hz, 1000Hz, and 2000Hz, or
 2. More than 30dB at 3000Hz, 4000Hz, and 6000Hz.
- (3) History of ear pain; drainage; dizziness; severe persistent tinnitus; sudden, fluctuating, or rapidly progressive hearing loss; or a feeling of fullness or discomfort in one or both ears within the preceding 12 months.

(4) Cerumen accumulation sufficient to completely obstruct the view of the tympanic membrane or a foreign body in the ear canal.

(5) Use of a hearing aid.

c. Functional hearing evaluation required. Issues of reversibility and prognosis should be addressed during the otologic evaluation. The evaluation should consist of directional speech comprehension in noise and speech comprehension in quiet using the High Intensity Noise Test (HINT) or other tests that meet the performance characteristics as outlined in paragraph “d.” Candidates who perform more poorly than the fifth percentile of the normal hearing group under any of the three background noise conditions (noise in front, right, or left) are not eligible for hire. Candidates with quiet

thresholds greater than 28dB(A) on the HINT or other tests that meet the performance characteristics as outlined in paragraph “d” are not eligible for hire.

d. Required performance testing characteristics include the following:

- (1) Testing is available in both headphone and sound field versions.
- (2) The testing has an adequate normal hearing control group.
- (3) The testing is capable of spatial separation between the speech and the noise source.
- (4) The testing uses adaptive testing techniques.
- (5) The testing uses a stationary background noise with the same average level across frequencies as the speech.

e. Use of a hearing aid. A candidate who uses a hearing aid(s) should be administered the HINT or other tests that meet the performance characteristics as outlined in paragraph “d” to assess speech comprehension ability in noise and quiet. Both tests must be administered by sound field methods rather than headphones. An aided audiogram can be reviewed to evaluate sound detection ability.

Before functional testing, the examining physician must ensure that the aid(s) has been worn regularly for at least one month, since it takes some practice before an individual obtains the maximum benefit from the hearing aid(s). Furthermore, the examining physician should obtain all records from the audiologist who dispensed the hearing aid(s). The records must include documentation of the fitting program and other hearing aid settings, which are used on a regular basis by the candidate. This information shall be reviewed by the certified audiologist performing the testing procedure to verify that the settings have not been intentionally altered.

The following protocol must be used. No modifications to the candidate’s hearing aid program or settings should be made prior to or during the performance of this protocol.

(1) Evaluate whether the hearing aid(s) is working properly. The electroacoustic response characteristics of each hearing aid worn by the candidate should be measured in an appropriate acoustic coupler and test chamber according to ANSI specifications (ANSI 1992 and 1996). The response of the hearing aid(s) should be measured at the four designated input levels with a broadband test signal, as specified in the specifications. All measurements should be printed and retained in the candidate’s records. If the hearing aid(s) is not in proper working condition, no further testing should be performed at that time. The candidate may elect to have the hearing aid(s) repaired or replaced and may return to repeat the protocol. In this event, the entire protocol, including measurements of the electroacoustic response characteristics of the hearing aid(s), should be repeated with the new or repaired hearing aid(s). Hearing aid sales, repairs, and replacements should be from an independent provider other than the provider of the functional assessment services.

(2) Review the candidate’s regular fitting program and settings. The fitting program and settings should be equivalent to those measured according to subparagraph (1). If they are not equivalent, no further testing should be performed at that time.

(3) Determine whether the functional gain is both physiologic and appropriate for the candidate’s hearing loss. Unaided and aided binaural sound field thresholds should be measured at 250Hz, 500Hz, 1000Hz, 2000Hz, 3000Hz, 4000Hz, and 6000Hz, using warble tone stimuli presented from a loudspeaker positioned 1 meter in front of the candidate at 0 degrees azimuth. If the functional gain is not physiologic and appropriate, then no further testing should be performed at that time.

(4) Perform aided sound field HINT or other approved testing in noise and quiet. Compare the results to the site-specific normal values for sound field noise front, noise right, and noise left conditions. If the measured thresholds are better than the fifth percentile under all three conditions, then the noise testing shall be repeated with the background noise fixed at 80dB(A). The same normative values used with the standard background noise levels may be used to assign percentile scores to these results.

The examining physician may use the evaluation algorithm described in Hearing Guidelines—Abnormal Audiogram, with one exception. Many present-day hearing aids employ methods of sound processing that vary as a function of the background noise level, and it is necessary to measure aided sound field HINT thresholds through a range of background noise levels. Therefore, candidates who use hearing aid(s) should be functionally normal both under standard HINT background noise levels (i.e., 65dB) and at levels that are commonly encountered in the field (80dB).

The candidate has met the required hiring standards if the candidate has demonstrated acceptable functional ability when wearing a hearing aid(s) and wears a hearing aid(s) when assigned to field duty.

2.1(11) Is examined by a licensed physician or surgeon and meets the physical requirements necessary to fulfill the responsibilities of a law enforcement officer.

2.1(12) Has not been previously decertified in another jurisdiction.

2.1(13) Has not committed any act that could result in decertification under 501—Chapter 6.

[ARC 2960C, IAB 3/1/17, effective 4/5/17; ARC 5006C, IAB 3/25/20, effective 4/29/20; ARC 5572C, IAB 4/21/21, effective 5/26/21; ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—2.2(80B) Mandatory psychological testing and administrative procedures. In no case shall any person be selected or appointed as a law enforcement officer unless that person has performed satisfactorily in preemployment cognitive or psychological tests, or both, prescribed by the Iowa law enforcement academy.

2.2(1) Required cognitive test.

a. Entry-level applicants for all law enforcement positions in the state of Iowa shall take the Stanard & Associates' National Police Officer Selection Test (POST).

b. The minimum satisfactory score to be eligible for employment is 70 percent on each of the four sections of this examination. Agencies and civil service commissions may require a higher satisfactory score than 70 percent on each or any of the sections of the test.

2.2(2) Required psychological test.

a. The Minnesota Multiphasic Personality Inventory 2 (MMPI-2) test shall be taken by all applicants in the final selection process for a law enforcement position.

b. The prescribed psychological test for an applicant in the final selection process shall be administered, scored and interpreted by the academy or by an individual who has been approved by the academy. The prescribed psychological test for an applicant in the final selection process shall be evaluated by the Iowa law enforcement academy. These tests shall be evaluated and test results and evaluations shall be forwarded to a law enforcement agency for selection purposes only by the Iowa law enforcement academy upon proper waiver by the applicant.

2.2(3) Test administration.

a. Test results may be forwarded by the academy to a law enforcement agency for selection purposes only upon proper waiver by the applicant.

b. The Iowa law enforcement academy shall have prescheduled testing dates each fiscal year. Nonscheduled testing dates may also be provided.

c. The administration of the POST test and the MMPI-2 shall be in accordance with directions of the Iowa law enforcement academy.

2.2(4) Cognitive test. Rescinded IAB 3/25/20, effective 4/29/20.

2.2(5) Psychological tests.

a. Those law enforcement agencies which choose to administer, score, or interpret the MMPI-2 without using the academy's testing services shall forward to the academy psychological testing information on any individual hired within 14 days of the date hired. Such information shall include, but not be limited to, all scores from MMPI-2 scales used in the evaluation, the MMPI-2 answer sheet, and any resulting reports.

b. The MMPI-2 test may be administered to applicants who are not in the final selection process.

2.2(6) Cost of tests. The academy will establish and post fee schedules for costs of administering and evaluating the psychological and cognitive test or tests mandated by the academy for agencies who choose to utilize academy testing services.

The cost of the POST test shall be paid by the agencies for which testing is conducted to Stanard & Associates in accordance with the fee schedule approved by and posted at the Iowa law enforcement academy.

2.2(7) Availability of tests scores.

a. Forwarding of cognitive test results. Individual cognitive test scores of cognitive tests purchased through the Iowa law enforcement academy shall be provided by the Iowa law enforcement

academy to prospective employing agencies upon request and proper waiver by the applicant for a minimal handling fee.

b. Forwarding of MMPI-2 test results. The evaluation by the Iowa law enforcement academy of MMPI-2 tests will be available to any prospective employing agency upon request and proper waiver by the applicant for a minimal handling fee.

c. Certified law enforcement officers. Law enforcement officers certified through training by the Iowa law enforcement academy are not required to take a cognitive test but may be required to do so at the discretion of the employing agency.

d. Rescinded IAB 9/22/99, effective 10/27/99.

e. Individual POST test scores shall be forwarded by Stanard & Associates to prospective employing agencies upon request and payment of a fee in accordance with the fee schedule approved by and posted at the Iowa law enforcement academy.

f. Individual POST test scores must be postmarked and forwarded to Stanard & Associates within one business day of the date of the examination.

g. Only scores forwarded to Stanard & Associates will be recognized as valid and become part of the Iowa database.

2.2(8) Tests are valid for specific period.

a. The Iowa law enforcement academy evaluations of the MMPI-2 may only be used for 12 months to comply with these testing rules. Any applicant who has not been hired or placed upon a civil service certified list within 12 months of taking the MMPI-2 test must retake the examination and, before the applicant is hired, the results of the examination must be considered by the hiring authority.

b. Rescinded IAB 9/22/99, effective 10/27/99.

c. At its discretion the employing agency may elect to require an applicant to retake any Iowa law enforcement academy required psychological test as well as any other tests that it may deem necessary in its selection process.

d. POST test scores shall be valid for a period of one year from the date of the examination. An applicant who has not been hired or placed upon a civil service certified list within one year of taking this test must retake and successfully pass the examination before being hired. A person may retest on the same version of the POST examination once within a 12-month period, with a minimum required delay of 90 days before the retest. No delay in retesting is required when a person is given an alternate version of the POST examination.

e. The employing law enforcement agency or appropriate civil service commission retains the exclusive right to decide whether an individual shall be allowed to retest or take an alternate version of the POST examination as provided by these rules.

2.2(9) Construction. Nothing in these rules should be construed to preclude a Civil Service Commission or employing agency from requiring an applicant for a law enforcement position to take tests other than those mandated by these rules so long as the applicant in the final selection process has complied with these rules. These rules shall not be construed as altering or changing the current authority of a Civil Service Commission.

[ARC 5006C, IAB 3/25/20, effective 4/29/20; ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—2.3(80B) Officers moving from agency to agency.

2.3(1) A certified Iowa peace officer who has previously met all the requirements of rule 501—2.1(80B) and who intends to move employment from one Iowa law enforcement agency to another Iowa law enforcement agency, or who intends to be employed as a certified peace officer by more than one Iowa law enforcement agency simultaneously, shall:

a. Undergo a psychological examination as provided in rule 501—2.2(80B) of this chapter, and

b. Be of good moral character as determined by a thorough background investigation by the hiring agency, including, but not limited to, a fingerprint search conducted by the Iowa division of criminal investigation and Federal Bureau of Investigation. If the results of the fingerprint file checks cannot reasonably be obtained prior to the time of appointment, the hiring shall be considered conditional until such time as the results are received and reviewed by the appointing agency.

2.3(2) Except as otherwise specified, the provisions of rule 501—2.1(80B) of this chapter do not need to be reverified upon the movement of employment from one Iowa law enforcement agency to another Iowa law enforcement agency or upon being employed by more than one Iowa law enforcement agency simultaneously if the certified Iowa peace officer met all of the requirements of rule 501—2.1(80B) when the officer was initially hired as an Iowa peace officer and if, without a break of not more than 180 days from law enforcement service, the officer is hired by another Iowa law enforcement agency.

2.3(3) A certified Iowa peace officer who has previously met all the requirements of rule 501—2.1(80B) and who intends to work at the Iowa law enforcement academy shall meet the requirements as outlined in this chapter effective October 20, 2004. Certified Iowa peace officers who are working at the Iowa law enforcement academy before October 20, 2004, may be considered regular peace officers in an active sworn status, and the requirements outlined in 2.3(1) and 2.3(2) shall be waived.

501—2.4(80B) Officers in agencies under intergovernmental agreements. The provisions of rule 501—2.1(80B) do not need to be reverified by officers when jurisdictions enter into an intergovernmental agreement under the provisions of Iowa Code chapter 28E for the sharing of law enforcement services by those jurisdictions and officers if the execution, filing and recording of the agreement conform to the requirements of Iowa law and a certified copy is provided to the director of the academy; however, this does not apply to the establishment of a unified law enforcement district as defined in Iowa Code section 28E.21, wherein a new legal entity or political subdivision is established.

501—2.5(80B) Higher standards not prohibited. While no person can be selected, hired or appointed as an Iowa law enforcement officer who does not meet minimum requirements, agencies are not limited or restricted in establishing additional standards.

These rules are intended to implement Iowa Code sections 80B.11 and 80B.11B.

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◊ Two or more ARCs

CHAPTER 4

INSTRUCTOR CERTIFICATION CRITERIA FOR THE TRAINING OF PEACE OFFICERS,
RESERVE OFFICERS, JAILERS AND PUBLIC SAFETY TELECOMMUNICATORS

[Appeared as Ch 3 prior to 4/10/85]

[Prior to 3/11/87, Law Enforcement Academy[550] Ch 4]

501—4.1(80B,80D) Instructors for the training of peace officers, reserve officers, jailers and public safety telecommunicators.

4.1(1) *Instructor designation.* All instructors will be designated as either general or a subject matter expert (SME). General instructors will be peace officers, jailers, jail administrators or public safety telecommunicators instructing in subjects relevant to their profession. Subject matter expert instructors will be those instructing subjects in the areas requiring a specialized academic degree, certification, licensure or experience. Final decision as to whether an instructor is in the general or SME area rests with the academy council or the academy director.

4.1(2) *Certification of instructors.* All certification of instructors will be the responsibility of the academy council.

4.1(3) *Request for instructional certification.*

a. All instructors requesting certification must submit this request to the academy council on an application which can be obtained from the Iowa law enforcement academy. Minimum qualifications for the certification of instructors (general and subject matter expert) apply to all applicants.

b. All applications for instructors must be submitted to the academy 20 days prior to a regularly scheduled academy council meeting. Any applications not received 20 days prior to a regularly scheduled meeting may not be considered and may be added to the agenda of the next subsequent meeting.

4.1(4) *Instructor qualifications.* Instructors will be certified on the basis of minimum qualifications in the areas of education, training, experience and background. The actual evaluation and selection of instructors will remain the responsibility of the administrator who is ultimately responsible for the instruction provided.

4.1(5) *Granting or revocation of instructor certification.*

a. The granting of instructor certification will be determined by a vote of the academy council. The academy shall issue instructor certification to an applicant upon approval of the academy council. In the event of denial of instructor certification, the applicant may file a written notice of appeal to the academy council within 30 days of notification of the action. The appeal notice should be addressed to Director, Iowa Law Enforcement Academy, P.O. Box 130, Johnston, Iowa 50131. A hearing on this matter will be held by the academy council within 60 days of the receipt of the appeal notice.

b. All instructor certification will be issued for a period of three years. Once certified, an instructor is certified to instruct throughout the state. At the end of a three-year period, certification may be renewed if the instructor has maintained the training requirements for certification, has instructed in a certified training program during the three-year period, remains in good standing, and is recommended by the administrator under whose supervision the individual has instructed.

c. The certification may be revoked or suspended in writing at the discretion of the academy council or the academy director subject to subsequent council review. In the event of denial of recertification or revocation of certification, the certificate holder may file a written notice of appeal to the academy council within 30 days of notification of the action. The appeal notice should be addressed to Director, Iowa Law Enforcement Academy, P.O. Box 130, Johnston, Iowa 50131. A hearing on this matter will be held by the academy council within 60 days of the receipt of the appeal notice.

d. Good standing determination is in the sole discretion of the academy council or academy director subject to subsequent council review. A person who has been dismissed for good cause from previous employment; who leaves, who voluntarily quits, or whose position is eliminated when disciplinary action was imminent or pending that could have resulted in removal for good cause as

defined in rule 501—1.1(80B); or who is currently involved in the decertification process shall not be considered in good standing.

4.1(6) *Responsibility for ensuring instructional excellence.* It is the continuing responsibility of the administrator who is ultimately responsible for the instruction provided to ensure that the instructors are assigned only topics that they are qualified to teach and are supervised on a regular basis to ensure that instructional excellence is maintained.

4.1(7) *Endorsement of application for instructor certification.* Applications for instructor (general or subject matter expert) certification will be endorsed by the administrator who is ultimately responsible for the instruction provided and, where applicable, by the applicant's department head.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—4.2(80B,80D) Minimum qualifications for certification of instructor (general).

4.2(1) *Experience and training.* The following are minimum experience and training requirements that an instructor (general) must meet in order to become certified:

a. A minimum of three years' certified experience (peace officer, jailer or public safety telecommunicator) with a majority portion of this experience in the subject area to be instructed; and

b. Successful completion of an instructor training course consisting of a minimum of 16 hours of instruction or have provided a minimum of 60 hours of instruction within the past three years and be able to verify the same upon request.

4.2(2) *Specific requirements to instruct specialized areas.* Special training or valid certification is required to instruct certain subject areas, including but not limited to those listed below:

a. Arson and bombing instructor. Must have attended a specialty school in police/military explosives handling and a recognized arson school.

b. Collision investigation instructor. Must have successfully completed a two-week collision investigation school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.

c. Defensive tactics instructor. Must have successfully completed a defensive tactics instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.

d. Fingerprint instructor. Must have successfully completed the basic and advanced Federal Bureau of Investigation fingerprint schools or a program approved by the Iowa law enforcement academy.

e. Firearms instructor. Must have successfully completed a firearms instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.

f. Iowa law enforcement emergency care provider instructor. Must be certified as an ILEECBP by the Iowa law enforcement academy or maintain current emergency medical care provider, or higher level of medical certification.

g. Less lethal and chemical munitions instructor. Must have attended a school recognized by the Iowa law enforcement academy in less lethal and chemical munitions.

h. OWI/implied consent and standardized field sobriety test (SFST) instructor. Must have successfully completed a standardized field sobriety test instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.

i. Precision driving instructor. Must have successfully completed a precision driving instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—4.3(80B,80D) Minimum qualifications for certification (subject matter expert). The following are minimum experience and training requirements that an instructor (subject matter expert) must meet in order to become certified:

4.3(1) *Experience.* Must have a minimum of three years' experience in the subject area to be instructed; and

4.3(2) Education. Must have at least a baccalaureate degree in the subject area or related field unless further education is required or a current license or certification in the subject area; and

4.3(3) Background. Must be recommended by the administrator who is ultimately responsible for the instruction provided who shall consider the reputation, conduct, stability, and ability of the person being recommended.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

These rules are intended to implement Iowa Code sections 80B.11, 80B.11A, 80B.11C and 80D.4.

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CHAPTER 7
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

501—7.1(17A,22) Definitions. As used in this chapter:

“*Agency*” means the Iowa law enforcement academy.

“*Confidential record*” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“*Custodian*” means the Iowa law enforcement academy, or a person lawfully delegated authority by the Iowa law enforcement academy to act for the agency in implementing Iowa Code chapter 22.

“*Open record*” means a record other than a confidential record.

“*Personally identifiable information*” means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“*Record*” means the whole or a part of a public record as defined in Iowa Code section 22.1.

“*Record system*” means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.2(17A,22) Statement of policy. This chapter implements Iowa Code section 22.11 by establishing agency policies and procedures for the maintenance of records. The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.3(17A,22) Requests for access to records.

7.3(1) Location of record. A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Iowa Law Enforcement Academy, P.O. Box 130, Camp Dodge, Johnston, Iowa 50131.

7.3(2) Office hours. Open records shall be available during customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

7.3(3) Request for access. A request for access to open records may be made in writing, by electronic mail, in person or by telephone. The request shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

7.3(4) Response to requests. Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public

to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 501—7.6(17A,22) and other applicable provisions of law.

7.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

7.3(6) *Copying.* A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

7.3(7) *Fees.*

a. When charged. The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Search and supervisory fees. Fees may be charged for actual agency expenses in searching for and supervising the examination and copying of requested records. The custodian shall notify the requester of the hourly fees to be charged for searching for records and supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform these search and supervisory functions.

d. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require payment of the full amount of any fees previously owed and of any estimated fees for the new request prior to processing any new request from the requester.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.4(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

7.4(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

7.4(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested

have been deleted. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

7.4(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code section 22.7(3) or 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

7.4(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

7.4(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

7.4(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record need not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.5(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. The requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian or to the Iowa law enforcement academy. The request to review such a record or the written statement of such a record of additions, dissents or objections must be dated and signed by the requester, and shall include the current address and telephone number of the requester or the requester's representative.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.6(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 501—7.3(17A,22).

7.6(1) *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

7.6(2) *Requests.* The custodian may require that a request to examine and copy a confidential record be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

7.6(3) *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

7.6(4) *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

- a.* The name and title or position of the custodian responsible for the denial; and
- b.* A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

7.6(5) *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.7(17A,22) Notice to suppliers of information. The agency shall notify persons completing agency forms of the use that will be made of personal information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means. Notice need not be given in connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law, or similar demands for information.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.8(17A,22) Disclosures without the consent of the subject.

7.8(1) Open records are routinely disclosed without the consent of the subject.

7.8(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a.* For a routine use as defined in rule 501—7.9(17A,22) or in any notice for a particular record system.
- b.* To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.
- c.* To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

- d.* To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.
- e.* To the legislative services agency under Iowa Code section 2A.3.
- f.* Disclosures in the course of employee disciplinary proceedings.
- g.* In response to a court order or subpoena.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.9(17A,22) Routine use.

7.9(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

7.9(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

- a.* Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.
- b.* Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.
- c.* Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.
- d.* Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
- e.* Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.
- f.* Any disclosure specifically authorized by the statute under which the record was collected or maintained.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.10(17A,22) Consensual disclosure of confidential records. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person’s attorney.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.11(17A,22) Release to subject.

7.11(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 501—7.5(17A,22). However, the agency need not release the following records to the subject:

- a.* The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.
- b.* Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

- c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5).)
- d. Examination may be withheld as defined in Iowa Code section 22.7(19).
- e. Decertification requests or information concerning decertification procedures under Iowa Code section 80B.13(8) and 501—Chapter 6.
- f. As otherwise authorized by law.

7.11(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.
[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.12(17A,22) Availability of records.

7.12(1) General. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

7.12(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category according to the legal basis for withholding them from public inspection.

- a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)
- b. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)
- c. Records which are exempt from disclosure under Iowa Code section 22.7.
- d. Minutes or audio recordings of closed meetings of a government body. (Iowa Code section 21.5(5))
- e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "e."
- f. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements; or in the selection or handling of cases such as operational tactics or allowable tolerances, or criteria for the defense, prosecution or settlement of cases when disclosure of these statements would:
 - (1) Enable law violators to avoid detection;
 - (2) Facilitate disregard of requirements imposed by law; or
 - (3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2(11) "f" and 17A.3(1) "d.")
- g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, state and federal rules of evidence or procedure, the Code of Professional Responsibility, and case law.
- h. Examinations and results. (Iowa Code section 22.7(19))
- i. Agency instructional outlines when disclosure would be prohibited by Iowa Code section 17A.2(11) "f."
- j. Criminal investigative reports. (Iowa Code section 22.7(5))
- k. Computer resource security files containing names, identifiers, and passwords of users of computer resources. Such files must be kept confidential to maintain security for access to confidential records pursuant to Iowa Code section 22.7. (Iowa Code section 22.7(50))
- l. Data or information collected for the purpose of assessing, analyzing, measuring, preparing for, or responding to suspected, potential, or actual information security threats. (Iowa Code section 22.7(50))
- m. Detailed security audit information. Such information includes but is not limited to security assessment reports; information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of the office. (Iowa Code section 22.7(50))

n. Information security data, information security proposals, or information security assessments compiled, prepared, or developed by a governmental body, or compiled, prepared, or developed by a nongovernment body and used by a government body pursuant to a contractual relationship with the nongovernment body. (Iowa Code section 22.7(50))

o. Data processing software, as defined in Iowa Code section 22.3A, which is developed by a government body, or developed by a nongovernment body and used by a government body pursuant to a contractual relationship with the nongovernment body. (Iowa Code section 22.3A(2) “a”)

p. Log-on identification passwords, Internet protocol addresses, private keys, or other records containing information which might lead to the disclosure of private keys used in a digital signature or other similar technologies as provided in Iowa Code chapter 554D.

q. Records which if disclosed might jeopardize the security of an electronic transaction pursuant to Iowa Code chapter 554D.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.13(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in a records system as defined in rule 501—7.1(17A,22). Unless otherwise stated, the authority for the Iowa law enforcement academy to maintain the record is provided by Iowa Code chapter 80B, the statutes governing the subject matter of the record.

For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information, and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

7.13(1) *Law enforcement officer personal files.* The Iowa law enforcement academy is charged by Iowa Code chapter 80B to establish training and hiring standards and to certify individuals as law enforcement officers in the state of Iowa. Training records, law enforcement officer status, and personal questionnaires are necessary to accomplish the mandate of Iowa Code chapter 80B.

These personal files contain information about past and present law enforcement officers in the state. These files may contain hiring and termination information, personal questionnaires and status changes (required by rule 501—3.1(80B) and rule 501—3.2(80B)), medical information showing compliance with rule 501—2.1(80B) and rule 501—2.2(80B) as authorized by Iowa Code section 80B.11, criminal history data, restoration of citizenship records, pardon records, training records, test scores, disciplinary reports and evaluation reports prepared during recruit training, decertification requests, and investigative reports. These files may also contain published articles concerning an individual officer and other data relevant to a law enforcement officer’s career in law enforcement. Some of these records may be confidential under Iowa Code section 22.7 or Iowa Code chapter 692. Law enforcement officer personal records are stored in both paper and computerized form.

7.13(2) *Decertification files.* These files are maintained pursuant to Iowa Code section 80B.13(8). These files contain requests or inquiries made by hiring authorities concerning decertification of a person who is certified as a law enforcement officer in the state of Iowa. The Iowa law enforcement academy also has independent authority pursuant to Iowa Code section 80B.13(8) to revoke a law enforcement officer’s certification for conviction of a felony or revoke or suspend a law enforcement officer’s certification for a violation of rules adopted pursuant to Iowa Code section 80B.11(1) “h.” These files may contain official administrative or court filings or records, investigative reports, criminal history data, and attorney-client work product concerning possible or impending litigation. Some of this information may be confidential under Iowa Code sections 17A.2 and 22.7, Iowa Code chapter 692, constitutional restraints, statute and the Code of Professional Responsibility. Except as previously noted, administrative hearing filings or records and court records or filings are public records. This information is stored in paper and computerized forms.

7.13(3) *Litigation files.* These files or records contain information regarding litigation, or anticipated litigation, which includes judicial and administrative proceedings. The records include

briefs, depositions, docket sheets, documents, correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wanting to obtain copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy. Copies of pleadings and other documents filed in litigation with the Iowa law enforcement academy may be obtained from the Iowa law enforcement academy during normal business hours as these documents are public records. These records are maintained in paper and computerized forms.

7.13(4) *Personnel files.* The agency maintains files containing information about present and former employees, families and dependents, and applicants for positions with the agency. These files include payroll records, attendance records, psychological testing results, biographical information, background investigative reports and fingerprint checks, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code sections 22.7(7) and 22.7(11) and chapter 692.

7.13(5) *Library user files.* These files contain information on individuals who have checked out books, films, tapes, etc. from the Iowa law enforcement academy library. This information is confidential pursuant to Iowa Code section 22.7(13). This information is kept in paper form and may appear in computerized form.

7.13(6) *Law enforcement class files.* These files contain information concerning individuals who have attended training classes established by the Iowa law enforcement academy. These files may contain grade information, class rosters, class schedules, class tests, photographs of class members, and disciplinary information. Some of this information may be confidential pursuant to Iowa Code section 22.7. This information is kept in computerized and paper form.

7.13(7) *Implied consent training files.* These files contain information concerning those officers who are certified to invoke implied consent pursuant to Iowa Code chapter 321J. These files are public records and are accessible during normal working hours. Some of this information may be confidential pursuant to Iowa Code section 22.7. This information is kept in computerized and paper form.

7.13(8) *Specialized instructor files.* These files contain information concerning individuals who have attended specialized training programs or through experience are qualified to instruct in specialized areas of law enforcement. These records may be retrieved by personal identifier or through class name. Some of this information may be confidential pursuant to Iowa Code section 22.7. These records are kept in both computerized and paper form.

7.13(9) *Psychological testing.* These files contain information concerning a law enforcement applicant's test scores regarding cognitive and psychological tests mandated by Iowa Code section 80B.11(1) "g." In these files other psychological examinations requested by hiring agencies are also stored by a personal identifier. Some of this information may be confidential pursuant to Iowa Code section 22.7(19). Law enforcement officers interested in the results of their psychological testing should contact the hiring agency that authorized the testing. This information is maintained in both computerized and paper form.

7.13(10) *Contract file.* This file contains information concerning contracts between the Iowa law enforcement academy and outside agencies or individuals. Some of this information may be confidential pursuant to Iowa Code section 22.7(6). These records are kept in paper form or computerized form.

7.13(11) *Salary files.* These files contain information concerning financial data regarding payments made to permanent or temporary employees of the Iowa law enforcement academy. These records are maintained concurrently by the Iowa law enforcement academy, the Iowa department of administrative services, and the Iowa department of revenue. These records are kept in paper and computerized form.

[ARC 5006C, IAB 3/25/20, effective 4/29/20; ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—7.14(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than a record system as defined in rule 501—7.1(17A,22). These records are routinely available to the public; however, the agency's files of these records may contain confidential information as discussed in rule 501—7.12(17A,22). The records listed may contain information about individuals. All records are stored on paper and in computer systems unless otherwise noted.

7.14(1) Council records. Agendas, minutes, and materials presented to the Iowa law enforcement academy council are available at the Iowa law enforcement academy, except those records concerning executive sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Council records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.5.

7.14(2) Administrative records. This includes documents concerning budget, property inventory, reservation and use of facility space, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions, and income sources such as psychological testing fees, petty cash, tuition, film rentals, and room rentals.

7.14(3) Publications. The office receives a number of books, periodicals, videotapes, films, newsletters, government documents, etc. These records are maintained in the library established pursuant to Iowa Code section 80B.15 for use by law enforcement training centers and institutions who have a two-year program in law enforcement. Some of these records may be protected by copyright law. Many of these publications of general interest are available in the state law library.

7.14(4) Rule-making records. Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection.

7.14(5) Office manuals. Information in office manuals such as the instructor outlines or policy manuals may be confidential under Iowa Code section 17A.2(11) "f" or other applicable provision of law.

7.14(6) Office publications. The agency maintains statistical reports and other written documentation to educate the public about the Iowa law enforcement academy to be used in program planning and budget projections.

7.14(7) Legislative files. These files keep a record of bills being considered by the Iowa legislature each legislative session. These records are public records and can best be obtained by contacting the Iowa house or senate bill room at the state capitol.

7.14(8) Research files. These files are kept as working files to research and scrutinize different concerns particular to law enforcement and the academy's training and rule-making obligations. Some of this information is confidential as attorney-client work product, as under Iowa Code section 17A.2 or 22.7, or other applicable provisions of law.

7.14(9) All other records. Records are open if not exempted from disclosure by law.
[ARC 5006C, IAB 3/25/20, effective 4/29/20]

501—7.15(17A,22) Data processing systems. None of the data processing systems used by the agency compare personally identifiable information in one record system with personally identifiable information in another record system.

[ARC 5006C, IAB 3/25/20, effective 4/29/20]

These rules are intended to implement Iowa Code chapters 17A and 22.

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[Filed ARC 6137C (Notice ARC 5962C, IAB 10/6/21), IAB 1/12/22, effective 2/16/22]

CHAPTER 9 JAILER TRAINING

501—9.1(80B) Jailer training.

9.1(1) Basic training. All jail administrators shall meet the following requirements within six months of appointment. Jailers shall meet the following requirements within one year of employment or assignment:

a. Successful completion of a 40-hour training program approved by the academy or the National Sheriffs' Association correspondence course. Either course must be appropriately documented to reflect course content, length of session, and instructor(s). All instructors presenting in the 40-hour training program shall be certified by academy personnel utilizing certification standards adopted by the academy (rule 501—4.1(80B,80D)). It shall be the responsibility of the training program administrator to make certain all instructors are certified and the training program is approved.

b. Approved 40-hour training program curriculums shall include the following topics:

- (1) Suicide prevention/mental illness (201—paragraph 50.15(6) “c”).
- (2) Prison rape elimination act (PREA) (Title 42 U.S.C. 147).
- (3) Bloodborne pathogens (OSHA standard as set out in CFR Part 1910.1030(g)(2)).
- (4) Legal: training topics in paragraphs “1” through “5” below must include references to the Iowa Code, jail standards and relevant case law.

1. Grievance and disciplinary procedures (201—subrule 50.21(4)).
2. Constitutional rights of inmates (201—Chapter 50).
3. Introduction to Iowa criminal law as applicable to a jail setting (201—Chapter 50).
4. Affirmative duty to intervene/intercede.
5. Use of force (Iowa Code sections 704.1, 704.2, 704.2A, 704.2B, 704.8).
- (5) Cultural diversity including implicit bias (Iowa Code section 80B.11G).
- (6) Communication skills including de-escalation (Iowa Code section 80B.11G).
- (7) Methods of restraining violent inmates.
- (8) Medical screening at intake (201—subrule 50.15(6)).
- (9) Supervision of inmates.
- (10) Report writing.
- (11) DNA submissions.
- (12) Fingerprinting.
- (13) Medication management (201—subrule 50.15(2)).
- (14) Security procedures/cell and area searches.
- (15) Jail standards (201—Chapter 50).
- (16) Juveniles in custody.

c. First aid and cardiopulmonary resuscitation (CPR).

(1) The individual shall hold a current course completion card in CPR, automated external defibrillator (AED) and foreign body airway obstruction for adults according to national standards defined by the International Liaison Committee on Resuscitation (ILCOR) and recognized by the Iowa law enforcement academy.

(2) The individual shall be trained in first aid according to national standards recognized by the Iowa law enforcement academy or shall hold certification as an Iowa law enforcement emergency care provider (ILEECP), emergency medical responder, licensed practical nurse, registered nurse, or medical practitioner or hold other similar certification in the state of Iowa.

(3) All certification or licensure required by this rule must thereafter be maintained current according to the standards of the certifying or licensing agency.

9.1(2) Annual jailer in-service curriculum. During each fiscal year of employment following completion of the required basic training as set forth in subrule 9.1(1), jailers and the administrator of a jail shall complete 20 hours of in-service training, not to include proficiency in chemical agents or firearms qualification. All instructors shall be certified by academy personnel utilizing certification standards adopted by the academy.

- a.* The following is a list of annually (every year) required topics: 12 hours
 - (1) Suicide prevention/mental illness (201—paragraph 50.15(6) “c”) 3 hours minimum
 - (2) Prison rape elimination act (PREA) (Title 42 U.S.C. 147) 1 hour minimum
 - (3) Emergency evacuation plan (201—subrule 50.9(3))
 - (4) Bloodborne pathogens (OSHA standard as set out in CFR Part 1910.1030(g)(2)) 1 hour minimum
 - (5) Legal: training topics in paragraphs “1” through “5” must include references to the Iowa Code, jail standards and relevant case law 2 hours
 - 1. Grievance and disciplinary procedures (201—subrule 50.21(4))
 - 2. Constitutional rights of inmates (201—Chapter 50)
 - 3. Introduction to Iowa criminal law as applicable to a jail setting (201—Chapter 50)
 - 4. Affirmative duty to intervene/intercede
 - 5. Use of force (Iowa Code sections 704.1, 704.2, 704.2A, 704.2B, 704.8)
 - (6) Cultural diversity including implicit bias (Iowa Code section 80B.11G) 2 hours minimum
 - (7) Communication skills including de-escalation (Iowa Code section 80B.11G) 1 hour minimum
 - (8) Methods of restraining violent inmates 1 hour minimum
 - (9) Medical screening at intake (201—subrule 50.15(6)) 1 hour minimum
 - b.* Required biannually (every two years):
 - CPR/AED/airway obstruction – adult 4 hours
 - c.* Eight hours of additional training selected by the jail administrator or sheriff.
- [ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—9.2(80B) Holding facility personnel training.

9.2(1) Basic training. All appointed facility administrators and designees shall meet the following requirements within one year of employment or assignment:

a. Facility administrators and supervisors employed in holding facilities shall receive ten hours of training within the first year of employment. This training shall include the following required topics or comparable course content:

- (1) Suicide prevention/mental illness (201—paragraph 50.15(6) “c”).
- (2) Prison rape elimination act (PREA) (Title 42 U.S.C. 147).
- (3) Legal: training topics in paragraphs “1” through “5” must include references to the Iowa Code, jail standards and relevant case law.

- 1. Grievance and disciplinary procedures (201—subrule 50.21(4)).
- 2. Constitutional rights of inmates (201—Chapter 50).
- 3. Introduction to Iowa criminal law as applicable to a jail setting (201—Chapter 50).
- 4. Affirmative duty to intervene/intercede.
- 5. Use of force (Iowa Code sections 704.1, 704.2, 704.2A, 704.2B, 704.8).
- (4) Security procedures.

b. First aid and CPR.

(1) The individual shall hold a current course completion card in CPR, AED and foreign body airway obstruction for adults according to national standards defined by the ILCOR and recognized by the Iowa law enforcement academy.

(2) The individual shall be trained in first aid according to national standards recognized by the Iowa law enforcement academy, or shall hold certification as an ILEEC, emergency medical responder, licensed practical nurse, registered nurse, or medical practitioner or hold other similar certification in the state of Iowa.

(3) All certification or licensure required by this rule must thereafter be maintained current according to the standards of the certifying or licensing agency.

9.2(2) Annual holding facility in-service curriculum.

a. Administrators and supervisors of holding facilities shall complete five hours of in-service training, not to include hours spent in maintaining required certification or proficiency in first aid, CPR/AED/airway obstruction – adult, chemical agents, or handling of firearms.

b. Required annually (every year):

(1) Suicide prevention (201—paragraph 50.15(6) “c”) 1 hour minimum

(2) Emergency evacuation plan (201—subrule 50.9(3))

(3) Bloodborne pathogens (OSHA standard as set out in CFR Part

1910.1030(g)(2))

1 hour minimum

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

These rules are intended to implement Iowa Code section 80B.11A.

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CHAPTER 10
RESERVE PEACE OFFICERS

501—10.1(80D) General requirements for reserve peace officers. In no case shall any person hereafter be selected or appointed as a reserve peace officer unless the person:

10.1(1) Is a citizen of the United States and a resident of Iowa or intends to become a resident of Iowa upon appointment as a reserve peace officer, provided that the state residency requirement under this subrule shall not apply to employees of a city or county that has adopted an ordinance to allow the employees of the city or county to reside in another state and shall not apply to an employee of a city or county that later repeals such an ordinance if the employee resides in another state at the time of the repeal. A city or county that has adopted an ordinance to allow the employees of the city or county to reside in another state shall provide a current copy of the ordinance to the Iowa law enforcement academy.

10.1(2) Is 18 years of age at the time of selection or appointment.

10.1(3) Has a valid driver's or chauffeur's license issued by the state of Iowa. Reserve peace officers who are allowed to reside in an adjacent state shall be required to possess a valid driver's or chauffeur's license of the state of residence of the officer.

10.1(4) Is not addicted to drugs or alcohol.

10.1(5) Is of good moral character as determined by a thorough background investigation, including a fingerprint search conducted on local, state and national fingerprint files, and has not been convicted or adjudicated of any offense listed in 501—paragraph 2.1(5) "a."

10.1(6) Is not by reason of conscience or belief opposed to the use of force when necessary to fulfill the person's duties.

10.1(7) Is a high school graduate with a diploma or possesses a GED equivalency certificate.

10.1(8) Has an uncorrected vision of not less than 20/100 in both eyes, corrected to 20/20.

a. The applicant shall have color vision consistent with the occupational demands of law enforcement. An applicant's passing any of the following color vision tests indicates that the applicant has color vision abilities consistent with the occupational demands of law enforcement:

(1) Pseudoisochromatic plates tests such as, but not limited to, Tokyo Medical College, Ishihara, Standard Pseudoisochromatic Plates, Dvorine, American Optical HHR Plates, and American Optical.

(2) Panel tests such as Farnsworth Dichotomous D-15 Test or any other test designed and documented to identify extreme anomalous trichromatic, dichromatic or monochromatic color vision. Color corrective lenses may not be used by an applicant during the testing process per the American College of Occupational and Environmental Medicine (ACOEM) Guidance for the Medical Evaluation of Law Enforcement Officers.

b. An individual with extreme anomalous trichromatism or monochromasy color vision, as determined through testing, is not eligible to serve as a reserve peace officer in the state of Iowa.

10.1(9) Has hearing corrected to normal hearing standards. Hearing is considered normal when, tested by an audiometer, hearing sensitivity thresholds are within 25dB measured at 1000Hz, 2000Hz and 3000Hz averaged together. Hearing tests conducted within 12 months before appointment or selection may be used. A person who performs policing duties alone and without the direct supervision of a certified regular law enforcement officer who is physically present with the reserve peace officer at all times must have normal hearing in each ear. Policing duties include but are not limited to responding to calls, making traffic stops, and patrolling the jurisdiction.

10.1(10) Is examined by a licensed physician or surgeon and meets the physical requirements as defined by the law enforcement agency necessary to fulfill the responsibilities of the reserve peace officer position being filled.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—10.2(80D) Higher standards not prohibited. A person who does not meet minimum standards shall not be selected or appointed as an Iowa reserve peace officer. Agencies are not limited or restricted in establishing additional standards.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—10.3(80D) Certification through training required for all reserve peace officers.

10.3(1) Each person appointed to serve as a reserve peace officer after July 1, 2007, shall satisfactorily complete a minimum training course established by the academy consisting of at least 80 hours of training and 40 hours of supervised time. Training for individuals appointed as reserve peace officers shall be provided by the Iowa law enforcement academy through the learning management system, through approved regional academies, or through instructors at a law enforcement agency approved by the academy. Reserve peace officers must be certified within 18 months from the date of their appointment.

a. The training modules will be available through a learning management system online. The modules are self-paced and must be completed in order. The reserve peace officer completing the training module will be given an academy-developed test covering the completed module. The reserve peace officer completing the training module must pass the test with a score of 70 percent or better. If the first test score is below 70 percent, the reserve peace officer may take the test a second time following remediation of the failed topic(s) with an Iowa law enforcement academy instructor. Failure of the test the second time will result in the individual's not being eligible for certification for a period of one year following the date of the second test failure. At the completion of the training modules, the reserve peace officer will be given an academy-developed test covering all six modules. The reserve peace officer must pass this test with a score of 70 percent or better. If the first test score is below 70 percent, the reserve peace officer may take the test a second time following remediation of the failed topic(s) with an Iowa law enforcement academy instructor.

b. Supervised time is defined as direct supervision by a regular certified law enforcement officer of the reserve peace officer while the reserve peace officer is performing activities consistent with the reserve peace officer's duties, such as ride-along time, jail time, or other assigned duties.

c. Upon satisfactory completion of training and supervised time required by the academy, the individual shall be certified by the academy as an Iowa reserve peace officer and shall be issued a certificate by the academy.

10.3(2) The academy council may, at the council's discretion, extend the 18-month time period in which a reserve peace officer must become certified for up to 180 days after a showing of undue hardship by the reserve peace officer or the reserve peace officer's appointing agency. To be considered for an extension of the 18-month certification period, the person or agency requesting the extension must initiate the request in writing not less than ten days prior to the council meeting at which the extension request is to be discussed and must also make a presentation to the council at the next regularly scheduled meeting of the council. An extension shall not be liberally granted and shall only be granted after a showing that all other alternatives to an extension have been considered and rejected.

10.3(3) The time period within which a person must achieve certification as a reserve peace officer in the state of Iowa shall commence on the day a person is first appointed as a reserve peace officer in the state of Iowa. Any subsequent changes in a reserve peace officer's appointment status, including transfers to a different appointing agency, shall not toll or otherwise extend the certification period.

10.3(4) Should a person appointed as a reserve peace officer fail to achieve certification within the time period or under any extension allowed by this rule, that person shall not be eligible for appointment as a reserve peace officer and shall not serve as a reserve peace officer in the state of Iowa for a period of not less than one year from the date the time period in which to achieve certification expired, or from the date that the person was last appointed as a reserve peace officer in the state of Iowa, whichever comes first.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—10.4(80D) Curriculum for training modules. Six modules consisting of 12 to 16 hours of required training topics per module will be developed by the academy. The training modules will include curriculum and training materials for each topic. Curriculum and training materials will be provided by the academy to all reserve officer candidates via the online learning management system and to agencies with academy-approved instructors. Training modules will be updated no less than every three years. Approved training module curriculum shall include the following topics:

10.4(1) Module A.

- a.* Implicit bias.
- b.* Patrol techniques.
- c.* Ethics.
- d.* Use of force.
- e.* De-escalation.
- f.* Defensive tactics.

10.4(2) Module B.

- a.* Law of arrest.
- b.* Report writing.
- c.* Discretion.
- d.* Interviews and interrogations.
- e.* Role of emergency communication.
- f.* Precision driving.
- g.* Traffic direction.
- h.* Motor vehicle law.

10.4(3) Module C.

- a.* Vehicle stops.
- b.* Collision scene control.
- c.* Criminal law.
- d.* Current drug trends.
- e.* Recognizing impairment.
- f.* Community policing.

10.4(4) Module D.

- a.* Search and seizure.
- b.* Felony calls.
- c.* Introduction to crime scene.
- d.* Crisis and conflict.
- e.* Domestic abuse.
- f.* Juvenile law.

10.4(5) Module E.

- a.* Human trafficking.
- b.* Hazmat awareness.
- c.* Civil liability.
- d.* Bloodborne pathogens.
- e.* Weather preparedness.
- f.* Court organization.
- g.* Testifying in court.
- h.* Community relations.

10.4(6) Module F.

- a.* Mandatory reporting.
- b.* Practical skills testing in the areas of defensive tactics, vehicle stops, precision driving, and report writing.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—10.5(80D) Weapons certification.

10.5(1) Reserve officers must receive council certification in the use of weapons the hiring authority expects and authorizes the reserve peace officers to carry. Weapons training is not required with any weapons the reserve officers are not authorized to carry.

10.5(2) Individuals who have been certified through training by the Iowa law enforcement academy as regular officers may be certified to carry weapons as reserve officers without repeating the required reserve officer's weapons training under the following conditions:

a. The academy certification through training was acquired through a school in which firearms training was required; and

(1) The individual is serving as a regular officer for another department at the time of appointment as a reserve officer, or

(2) The individual has served as a regular officer within the two years immediately preceding appointment as a reserve officer.

b. Verification must also be provided to the council that the officer has fired a qualifying score of 80 percent or higher on a firearm course using targets approved by the academy within the past 12 months. This verification must be provided by an academy-trained and -certified firearms instructor.

10.5(3) Firearms, striking instruments and chemical weapons training must be provided by an Iowa law enforcement academy-certified instructor before a reserve peace officer can be certified to carry weapons. Reserve officer weapons training requirements are the same as those required of regular law enforcement officers during their basic training.

10.5(4) Application for weapons certification.

a. Application for weapons certification must be made in writing to the council on forms provided by the academy.

b. An applicant for certification to carry weapons as a reserve peace officer must be of good moral character and not have been convicted or adjudicated of any offense listed in 501—paragraph 2.1(5) “*a.*”

c. Verification must be received by the council that a fingerprint check has been made with the Federal Bureau of Investigation and the division of criminal investigation of the Iowa department of public safety and that the applicant has not been convicted or adjudicated of any offense listed in 501—paragraph 2.1(5) “*a.*” Fingerprint check responses from these agencies must be dated not more than one year prior to the date of the receipt by the academy of the application to the council for certification.

d. Council certification will be granted only where weapons proficiency is documented. Training in support of an application to the Iowa law enforcement academy council to carry weapons as a reserve peace officer shall have been accomplished not more than one year prior to the date of the receipt by the academy of the application to the council for certification. Failure to file the application within one year of the date of training shall require the officer to undergo weapons training anew.

e. Interim certification to carry weapons may be granted by the chairperson of the council if all requirements for certification have been met by the reserve officer and certified by the appointing authority. All interim certifications to carry weapons shall then be brought before the council at the next regularly scheduled meeting in order that the council can approve or reject the reserve officer’s certification to carry weapons.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—10.6(80D) Reserve peace officers moving from agency to agency. A reserve peace officer who has been certified by the Iowa law enforcement academy council to carry weapons and who transfers from one Iowa law enforcement agency to another as a reserve officer without more than a 180-day break in service (affiliation) will not be required to undergo weapons certification training anew, provided that a completed application to carry weapons as a reserve officer for the new agency in compliance with Iowa Code section 80D.7 is filed with the academy within 180 days of the date of transfer. If firearms certification is requested, the application must show that the officer has fired qualifying rounds under the supervision of an academy-certified firearms instructor within 30 days of the date of application. The application shall further state that all training records for the officer have been transferred to the new agency.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—10.7(80D) Reserve peace officers in agencies under intergovernmental agreements. When jurisdictions enter into an intergovernmental agreement under the provisions of Iowa Code chapter 28E for the sharing of law enforcement services by those jurisdictions and sharing of reserve peace officers, the compliance of reserve peace officers with rule 501—10.1(80D) does not need to be reverified if the execution, filing and recording of the intergovernmental agreement conform to the requirements of Iowa

law and a certified copy of the agreement is provided to the director of the academy. However, this exception from reverification does not apply to the establishment of a unified law enforcement district as defined in Iowa Code section 28E.21, wherein a new legal entity or political subdivision is established. [ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—10.8(80D) Reserve peace officers serving more than one agency.

10.8(1) A reserve peace officer who has previously met all the requirements of rule 501—10.1(80D) and who intends to move reserve peace officer status from one Iowa law enforcement agency to another Iowa law enforcement agency, or who intends to be a reserve peace officer for more than one Iowa law enforcement agency simultaneously, shall be of good moral character as determined by a thorough background investigation by the law enforcement agency, including but not limited to a fingerprint search conducted by the Iowa division of criminal investigation and the Federal Bureau of Investigation. If the results of the fingerprint file checks cannot reasonably be obtained prior to the time of appointment, the appointment shall be considered conditional until such time as the results are received and reviewed by the appointing agency.

10.8(2) Except as otherwise specified, the provisions of rule 501—10.1(80D) do not need to be verified upon the movement of reserve peace officer status from one Iowa law enforcement agency to another Iowa law enforcement agency or upon the reserve peace officer's being appointed as a reserve peace officer by more than one Iowa law enforcement agency simultaneously, if the reserve peace officer met all of the requirements of rule 501—10.1(80D) when the person was initially appointed as a reserve peace officer and if, without a break of not more than 180 days from law enforcement service, the person is appointed as a reserve peace officer by another Iowa law enforcement agency.

10.8(3) A reserve peace officer who serves more than one Iowa law enforcement agency at the same time must be certified by the Iowa law enforcement academy council to carry weapons for each agency that the reserve officer serves in compliance with Iowa Code section 80D.7. It is not necessary for the officer to complete weapons training for each such agency, but all agencies shall maintain duplicate training records for the officer.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—10.9(80D) Minimum in-service training requirements. All certified reserve peace officers shall meet the following mandatory minimum in-service training requirements:

10.9(1) Firearms training. A certified reserve peace officer who is authorized to carry firearms must qualify with all duty firearms annually on a course of fire using targets approved by the Iowa law enforcement academy and must successfully fire a minimum score as established by the Iowa law enforcement academy, using targets approved by the academy under the supervision of an academy-certified firearms instructor. This subrule applies only to those reserve peace officers who are authorized to carry firearms by the officers' appointing agency.

10.9(2) CPR certification required. Reserve peace officers shall maintain current course completion in cardiopulmonary resuscitation (CPR), automated external defibrillator (AED) and foreign body airway obstruction for all age groups according to national standards recognized by the Iowa law enforcement academy.

10.9(3) General training. In addition to the firearms training and CPR training requirements, a certified reserve peace officer must receive a minimum of 12 hours per year, or 36 hours every three years, of law enforcement-related in-service training. Whether training is law enforcement-related shall be determined by the employing agency administrator.

10.9(4) Mental health training. In addition to the requirements of subrules 10.9(1), 10.9(2) and 10.9(3), a certified reserve peace officer must receive mental health in-service training from a course of study approved by the Iowa law enforcement academy.

a. Initial in-service training. Effective September 25, 2013, each certified reserve peace officer shall complete within one year a minimum of four hours of mental health training from a course of study approved by the Iowa law enforcement academy council. Successful completion of mental health first aid or crisis intervention (Memphis Model or similar model) training after January 1, 2011, shall satisfy the initial requirement.

b. Annual in-service training. Effective September 25, 2013, each certified reserve peace officer shall complete a minimum of one hour per year, or four hours every four years, of mental health training from a course of study approved by the Iowa law enforcement academy council. This annual in-service training is separate from and in addition to any other in-service training requirements set forth in this chapter, including the initial in-service mental health training required.

10.9(5) *De-escalation training.* In addition to the requirements of subrules 10.9(1), 10.9(2), 10.9(3) and 10.9(4), a certified reserve peace officer must receive a minimum of four hours per year of training that includes all of the following topics:

a. An emphasis on law enforcement officer understanding and respect for diverse communities and the importance of effective, noncombative methods of carrying out law enforcement activities in a diverse community.

b. Instruction on diverse communities in order to foster mutual respect and cooperation between law enforcement and members of all diverse communities.

c. An examination of the patterns, practices, and protocols that cause biased law enforcement actions, and the tools to prevent such actions.

d. An examination and identification of key indices and perspectives that make up differences among residents in a local community.

e. Instruction on implicit bias and consideration of the negative impact of bias, whether intentional or implicit, on effective law enforcement, including examination of how historical perceptions of profiling have harmed community relations.

f. Instruction on the perspectives of diverse local constituency groups from experts on particular cultural and law enforcement-community relations issues in a local area.

g. A presentation of the history and the role of the civil rights movement and the impact on law enforcement.

h. Instruction on de-escalation techniques, including verbal and physical tactics to minimize the need for the use of force and nonlethal methods of applying force.

10.9(6) *Training and in-service requirements for regular law enforcement officers who become certified reserve peace officers.*

a. An active certified regular law enforcement officer who also serves as a reserve peace officer or a certified regular law enforcement officer who retires or leaves active regular law enforcement and returns within 180 days to an Iowa law enforcement agency as a reserve peace officer needs no further training.

b. Any individual who leaves an Iowa law enforcement officer position and becomes a certified reserve peace officer shall receive in-service training within one year of the individual's appointment date as follows:

<u>Period Outside of Iowa Law Enforcement</u>	<u>In-Service Training Required</u>
6 months to 12 months	12 hours
More than 12 months to 24 months	24 hours
More than 24 months to 36 months	36 hours
More than 36 months	60 hours

The subject matter of this training will be determined and approved by the law enforcement agency.

10.9(7) *Agency responsibility for record keeping.* It shall be the responsibility of the law enforcement agency administrator to ensure that in-service training records are regularly kept and maintained. The law enforcement administrator shall also ensure that these records are made available for inspection upon request by the Iowa law enforcement academy or its designee.

a. In-service training records shall include the following:

- (1) The subject matter of the training;
- (2) The name of the instructor conducting the training;
- (3) The name of the individual who completed the training;
- (4) The number of credit hours received from the training;

- (5) The location where the training took place; and
- (6) The scores, if any, achieved by the reserve peace officer to show proficiency in or understanding of the subject matter to include qualifying range scores.

b. It shall be the responsibility of law enforcement agency administrators to ensure that all certified reserve peace officers under their direction receive the minimum hours of in-service training required by these rules.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—10.10(80D) Reserve peace officers appointed prior to July 1, 2007—obtaining state certification.

10.10(1) A reserve peace officer enrolled in an approved minimum course of training prior to July 1, 2007, shall obtain state certification by July 1, 2012. Current reserve peace officers choosing not to be state-certified by examination or by module training established by the academy will continue to hold agency certification only and will not be recognized as reserve peace officers after July 1, 2012.

10.10(2) If a reserve peace officer appointed prior to July 1, 2007, with agency certification only transfers to another agency, the reserve peace officer will be considered a new reserve peace officer and will be subject to the 18-month training requirements for state certification.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—10.11(80D) Active law enforcement officer moving to reserve peace officer status.

10.11(1) An active law enforcement officer who has previously met all the requirements of rule 501—2.1(80B) and who intends to move to reserve peace officer status, or who intends to be a reserve peace officer for more than one Iowa law enforcement agency simultaneously, or who intends to be a reserve peace officer for an Iowa law enforcement agency while also working as an active law enforcement officer shall be of good moral character as determined by a thorough background investigation by the law enforcement agency, including but not limited to a fingerprint search conducted by the Iowa division of criminal investigation and the Federal Bureau of Investigation. If the results of the fingerprint file checks cannot reasonably be obtained prior to the time of appointment, the appointment shall be considered conditional until such time as the results are received and reviewed by the appointing agency.

10.11(2) Except as otherwise specified, the provisions of rule 501—10.1(80D) do not need to be verified upon the movement of active law enforcement officer status to reserve peace officer status or upon the officer's being appointed as a reserve peace officer by more than one Iowa law enforcement agency simultaneously, or upon the officer's being appointed as a reserve peace officer by one Iowa law enforcement agency while serving in active law enforcement status for another agency if the peace officer met all of the requirements of rule 501—2.1(80B) when the person was initially appointed as a peace officer and if, without a break of not more than 180 days from law enforcement service, the person is appointed as a reserve peace officer by another Iowa law enforcement agency.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

501—10.12(80D) Time frame—tolled. The time frame requirements for completion of any mandatory training are tolled during the period a reserve peace officer is called to active military service.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

These rules are intended to implement Iowa Code chapter 80D.

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[Filed ARC 6137C (Notice ARC 5962C, IAB 10/6/21), IAB 1/12/22, effective 2/16/22]

CHAPTER 11
SALVAGE VEHICLE THEFT EXAMINATIONS

501—11.1(80B,321) Minimum standards to conduct salvage vehicle theft examinations. Eligibility requirements for certification as a salvage vehicle theft examiner:

11.1(1) Only certified law enforcement officers of agencies which agree to participate in the salvage vehicle theft examination program are eligible to obtain certification or recertification as a salvage vehicle theft examiner.

11.1(2) A law enforcement officer must be certified by the Iowa law enforcement academy to be eligible to conduct salvage vehicle theft examinations.

501—11.2(80B,321) Salvage vehicle theft examiner initial certification. A law enforcement officer may be initially certified by the academy in one of the following ways:

11.2(1) A law enforcement officer may be certified by the council because of extensive training, background and experience to conduct salvage vehicle theft examinations.

11.2(2) A law enforcement officer may be certified by the council upon completion of an academy-approved salvage vehicle theft examination training course.

501—11.3(80B,321) Salvage vehicle theft examination training course. Those law enforcement officers seeking certification through training must successfully complete a minimum 12-hour salvage vehicle theft examination course approved by the academy to include, but not be limited to, the following topics and skills:

1. Administrative procedures in salvage vehicle theft examinations.
2. Preexamination procedures for salvage vehicle theft examinations.
3. Examination procedures for salvage vehicle theft examinations.
4. Completion of prescribed salvage vehicle theft examination forms.
5. Demonstrated understanding and ability to conduct a salvage vehicle theft examination.
6. The officer must successfully pass a written test on salvage vehicle theft examinations.

501—11.4(80B,321) Salvage vehicle theft examiner recertification requirements.

11.4(1) Salvage vehicle theft examiners must be recertified every two years from the date of their last certification.

11.4(2) Recertification shall require one of two training courses depending upon whether the salvage vehicle theft examiner's certification has expired.

a. Salvage vehicle theft examiners are required to successfully complete a minimum four-hour salvage vehicle theft refresher course approved by the academy prior to the expiration of certification. The refresher course shall be completed no more than 30 days prior to the expiration of certification.

b. Previously certified salvage vehicle theft examiners who have an expired certification must retake the initial 12-hour in-person salvage vehicle theft examination course to be recertified.

c. Recertification extensions. The council may grant a recertification extension of time for good cause.

[ARC 6137C, IAB 1/12/22, effective 2/16/22]

These rules are intended to implement Iowa Code sections 80B.11 and 321.52.

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[Filed ARC 6137C (Notice ARC 5962C, IAB 10/6/21), IAB 1/12/22, effective 2/16/22]

CHAPTER 13 PUBLIC SAFETY TELECOMMUNICATOR TRAINING STANDARDS

501—13.1(80B) Public safety telecommunicator training board. There is established a public safety telecommunicator training board under the authority of Iowa Code section 7E.3(3) which shall be an advisory board to the director as to matters arising under this chapter and the provisions of Iowa Code sections 80B.11 and 80B.11C. This board shall consist of a minimum of one representative of and named by each of those organizations and departments listed in Iowa Code section 80B.11C, and such other persons appointed at the discretion of the director. Members of the board shall not be considered to be state employees for the purpose of the board and shall serve without compensation. The board will meet at the call of the director, and may establish such internal procedures as it may deem appropriate, subject to the approval of the director. A chairperson and such other officers of the board to be determined by the board shall be selected by majority vote of the board. The board may establish bylaws for its operation. [ARC 5860C, IAB 8/25/21, effective 9/29/21]

501—13.2(80B) Public safety telecommunicator training.

13.2(1) Basic training. All persons employed primarily as public safety telecommunicators after July 1, 1998, shall successfully complete an approved basic training course within one year of employment. For purposes of this chapter, a public safety telecommunicator is defined as a person who serves as a first responder by receiving requests for, or dispatching requests to, emergency response agencies which include, but are not limited to, law enforcement, fire, rescue, and emergency medical services agencies.

13.2(2) In-service training requirements for former public safety telecommunicators who return to a public safety telecommunicator position. Any individual who leaves and then returns to an Iowa public safety telecommunicator position must receive, within one year of the individual's rehiring date, in-service training as follows:

<u>Period Outside Iowa Public Safety Telecommunications</u>	<u>Training Required</u>
6 months to 12 months	8 hours
More than 12 months to 36 months	20 hours
More than 36 months	40 hours

[ARC 5860C, IAB 8/25/21, effective 9/29/21]

501—13.3(80B) Basic training.

13.3(1) Approved basic training course. Approved basic training course means a 40-hour course of instruction which has been approved in advance by the Iowa law enforcement academy through the public safety telecommunicator training board, which includes at a minimum the following topics:

- a. Introduction to public safety services and the role of the public safety telecommunicator.
- b. Human relations and communications skills.
- c. 911 systems, communications equipment, terminology.
- d. Understanding and taking different types of calls.
- e. Basic dispatch/broadcast techniques.
- f. Dispatching and managing the response to a call for service.
- g. Multiple tasking and prioritization.
- h. Liability and legal issues.
- i. Resource awareness.
- j. Stress management and motivation.

13.3(2) Approval of courses. Requests for approval of basic training courses shall be timely submitted to the academy on prescribed forms.

13.3(3) Agency administrator responsibility. It shall be the responsibility of agency administrators to ensure that all public safety telecommunicators under agency administrators' direction receive the training required by these rules.

13.3(4) *Period of validity.* The approval of courses under this rule shall be valid for a period of 36 months.

[ARC 5860C, IAB 8/25/21, effective 9/29/21]

501—13.4(80B) Minimum in-service training requirements.

13.4(1) *In-service training for newly hired public safety telecommunicators.* During each full fiscal year of employment following completion of the required basic training as set forth in subrule 13.3(1), public safety telecommunicators shall complete a minimum of eight hours of in-service training.

13.4(2) *In-service training for incumbents.* During each fiscal year, currently employed public safety telecommunicators are required to complete a minimum of eight hours of in-service training.

13.4(3) *Required in-service course content.* To qualify as in-service training, the course content must consist of a topic or topics as listed in subrule 13.3(1) or other subject matter approved by the public safety telecommunicator training board.

13.4(4) *Agency responsibility.* Agency administrators shall ensure that all public safety telecommunicators under their direction receive the minimum hours of in-service training required by these rules and that current and accurate in-service training records are regularly kept and maintained. The agency administrator shall make these records available for inspection upon request by the director of the Iowa law enforcement academy or the director's designee.

13.4(5) *In-service training records.* In-service training records shall include the following data:

- a. The date and location of the training.
- b. The subject matter of the training.
- c. The instructor for the training.
- d. The individual who took the training.
- e. The number of credit hours received from the training.
- f. The scores, if any, achieved by the public safety telecommunicator to show proficiency in, or understanding of, the subject matter.

[ARC 5860C, IAB 8/25/21, effective 9/29/21]

501—13.5(80B) Public safety telecommunicator status forms furnished to academy. Within ten days of any of the following occurrences, the academy will be notified by the use of prescribed forms:

1. Any hiring, termination or retirement of personnel.
2. Change of status of existing personnel (e.g., promotions, name changes).
3. Training received by public safety telecommunicators not provided at or by personnel of the Iowa law enforcement academy.

[ARC 5860C, IAB 8/25/21, effective 9/29/21; ARC 6137C, IAB 1/12/22, effective 2/16/22]

These rules are intended to implement Iowa Code sections 80B.11 and 80B.11C.

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CHAPTER 116
REGISTRATION OF WASTE TIRE HAULERS
[Prior to 7/10/02, see 721—Chapter 44]

567—116.1(455B,455D) Purpose. The purpose of this chapter is to establish guidelines for the registration of waste tire haulers that provide waste tire collection and hauling services for a fee. The registration process shall ensure the proper management of waste tires collected by a waste tire hauler. This chapter shall not exempt a waste tire hauler from compliance with other applicable statutes or requirements regarding waste tires that are hauled to or from other states.

567—116.2(455B,455D) Definitions. As used in this chapter:

“Passenger tire equivalent” means a conversion measurement that is used to estimate waste tire weights and volume amounts and in which one passenger car tire with a rim diameter of 17 inches or less is equal to 20 pounds. One cubic yard of volume shall contain 15 passenger tire equivalents. Tires larger than a passenger car tire shall be evaluated for volume using this conversion measurement.

“Permit” means a permit issued by the department to establish, construct, modify, own, or operate a waste tire storage or processing site.

“Processing” means producing or manufacturing usable materials from waste tires.

“Processing site” means a site which is used for the processing of waste tires and which is owned or operated by a tire processor who has a permit for the site.

“Tire collector” means a permitted person or business that owns or operates a site used for the storage, collection, or deposit of more than 500 waste tires or an authorized vehicle recycler who is licensed by the department of transportation pursuant to Iowa Code section 321H.4 and who owns or operates a site used for the storage, collection, or deposit of more than 3,500 waste tires.

“Tire processor” means a permitted individual or business that processes tires through grinding, shredding, or other means, thereby producing a material that is readily suitable for marketing into product manufacturing, energy recovery, or other beneficial reuse markets. “Tire processor” does not mean a person who retreads tire casings or who collects and stores tires.

“Waste tire,” as defined in Iowa Code section 455D.11, means a tire that is no longer suitable for its originally intended purpose due to wear, damage, or defect. This definition shall include a tire mounted on a rim, but not on a vehicle. “Waste tire” does not include a nonpneumatic tire.

“Waste tire hauler” means a person who transports for hire more than 40 waste tires in a single load. This definition includes persons and businesses that collect fees to provide hauling and pick-up services for the disposal or removal of tires from other persons or businesses.

“Waste tire stockpile” means a permitted site that is used for the storage, collection, or deposit of waste tires or tire bales, including indoor, outdoor, and underground storage.

567—116.3(455B,455D) Registration requirement. A waste tire hauler shall register with and obtain a certificate of registration from the department in accordance with this chapter before hauling waste tires in Iowa. Waste tire haulers that pick up tires within Iowa or that bring waste tires to Iowa for disposal, storage, or processing shall be required to register.

116.3(1) Registration exemption. A waste tire hauler shall not be required to register under the following circumstances:

a. The waste tire hauler only travels through the state with waste tires as a part of interstate commerce and does not pick up, deposit, transfer, store, or dispose of any waste tires in Iowa.

b. The waste tire hauler is a municipal, county, state, or other public agency, and the vehicles used for transport of the waste tires are owned and licensed by the public agency. The agency may only haul up to 10,000 waste tires within a 12-month period without obtaining a waste tire hauler’s registration.

116.3(2) Annual registration.

a. A waste tire hauler registration shall be valid for one year, and the waste tire hauler must annually renew the waste tire hauler registration in order to continue to provide waste tire hauling services within the state.

b. Initial registration of a waste tire hauler shall be valid upon the date of issuance by the department and shall be effective for a minimum 12-month period thereafter, with expiration of the initial registration to occur on either January 1 or July 1, whichever date occurs most closely after the initial 12-month registration period.

c. Subsequent annual renewals of the waste tire hauler's registration shall then occur on either January 1 or July 1, subject to the date of the original expiration as referenced in 116.3(2)“b.”

567—116.4(455B,455D) Registration form. A waste tire hauler shall submit the following information on a form prescribed by the department for application for or renewal of registration as a waste tire hauler.

1. The name of the waste tire hauler and any other names under which the waste tire hauler may do business.

2. The principal address of the waste tire hauler and any other address at which the waste tire hauler may do business.

3. A business telephone number.

4. The name and address of the principal officer of a corporate waste tire hauler or the principal owner or owners of a waste tire hauler operating a proprietorship or partnership.

5. The following information for each motor vehicle used by the waste tire hauler for hauling tires:

- The name and address of the owner of the vehicle.
- The vehicle identification number of the vehicle.
- The year, make, and model of the vehicle.
- The license plate number of the vehicle.
- The name of the state in which the vehicle is registered.

6. A statement that the waste tire hauler agrees to comply with the vehicle identification requirements contained in this chapter.

7. The name of the permitted facility for waste tire disposal, storage or processing, or of another site of end use where the waste tires will be transported.

8. A statement that the waste tire hauler shall pay all amounts due to any individual or group of individuals when due for damages caused by improper disposal of waste tires by the waste tire hauler or the waste tire hauler's employee while acting within the scope of employment.

9. A statement that the waste tire hauler agrees to notify the department within 30 days of any change in the information contained in the registration form.

10. The signature of the waste tire hauler.

567—116.5(455B,455D) Registration fee. An application for initial registration or renewal shall be accompanied by a fee of \$50.

567—116.6(455B,455D) Bond form.

116.6(1) An application for registration or renewal shall not be approved by the department until the waste tire hauler has provided a bond in the sum of a minimum of \$150,000 on a form prescribed by the commissioner of insurance.

116.6(2) Bond requirements.

a. The bond shall be executed by a surety company authorized by the commissioner of insurance to do business in Iowa. The bond provided to the department shall be an original, or copy thereof. Facsimiles of the bond will not be accepted.

b. The surety shall name the state of Iowa as the obligee for the bond.

c. The bond shall be continuous in nature until canceled by the surety. The surety shall provide at least 30 days' notice in writing to the waste tire hauler and the department in the event of any intent to cancel the bond.

d. The waste tire hauler shall provide the department with a statement from the surety with each waste tire hauler registration renewal application, noting that the bond is paid and current for the annual period for which the waste tire hauler has applied for registration renewal.

[ARC 6147C, IAB 1/12/22, effective 2/16/22]

567—116.7(455B,455D) Marking of equipment. The following information shall be displayed on each side of equipment used for the hauling of waste tires, in letters and figures large enough to be read easily at a distance of 50 feet and in a color in contrast to the background.

1. The name of the registered waste tire hauler under whose authority the equipment is being operated.
2. The address of the registered waste tire hauler (city and state).
3. The registration number of the waste tire hauler, as assigned by the department. The hauler shall apply the following letters and symbol “IA TH#” preceding the assigned registration number.

567—116.8(455B,455D) Disposition of waste tires collected.

116.8(1) All tires collected by a waste tire hauler for which a fee has been collected or is to be charged shall be defined as a solid waste and shall be regulated as such.

116.8(2) Upon receipt of waste tires from a person or business, the waste tire hauler shall handle the waste tires as follows:

- a.* The waste tires shall be directly transported to a tire collector, tire processor, or waste tire stockpile site, as permitted and approved by the department or applicable local or state agencies.
- b.* The waste tires must be transported to a permitted site within 72 hours of initial pickup from the generator of the waste tires.
- c.* The waste tire hauler may not establish or operate any intermediate storage, waste sorting, transfer, or processing activities regarding the waste tires collected, unless such activities occur at a facility or site for which a waste tire stockpile permit or processing permit has been issued in accordance with 567—Chapter 117.

567—116.9(455B,455D) Reporting requirements. A registered waste tire hauler shall make a semiannual report to the department on a form provided or approved by the department. The report shall provide the department with appropriate information to ensure that waste tires recovered by the waste tire hauler have been handled properly for disposal or processing. Failure of the waste tire hauler to submit a timely report will result in denial of the waste tire hauler’s renewal of registration.

116.9(1) Reporting period. The waste tire hauler shall submit semiannual reports to the department according to the following schedule:

- a.* For waste tires collected during the six-month period beginning January 1 through June 30, the hauler shall submit a report by the following September 1.
- b.* For waste tires collected during the six-month period beginning July 1 through December 31, the hauler shall submit a report by March 1 of the following year.

116.9(2) Information required. The semiannual report shall include the following information. All waste tire quantities determined by count or weight shall be reported in passenger tire equivalents.

- a.* Quantity of waste tires collected by the waste tire hauler from within Iowa for the reporting period.
- b.* Quantity of waste tires that are brought to Iowa by the waste tire hauler from out-of-state sources during the reporting period.
- c.* Final disposition of all the waste tires collected during the reporting period by listing each tire collector, tire processor, waste tire stockpile site, or other beneficial site of end use, as approved by the department, and the total quantities of waste tires that the hauler has delivered to each.

116.9(3) Documentation and record keeping. The waste tire hauler shall keep appropriate records, including but not limited to receipts, invoices, or manifests, to document all quantities of waste tires hauled and disposed of by the waste tire hauler for the reporting period. These records shall be kept by the waste tire hauler for a minimum of three years, and shall be available for audit or inspection at the request of the department.

These rules are intended to implement Iowa Code sections 455B.301 to 455B.307 and 455D.11I.

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CHAPTER 117
WASTE TIRE MANAGEMENT
[Prior to 5/15/02, see also 567—Chapter 219]

567—117.1(455B,455D) Purpose. The purpose of this chapter is to establish guidelines for the proper management of waste tires, including disposal, collection, storage, processing, and beneficial reuse of waste tires and processed waste tire materials. The chapter shall not be construed to exempt a waste tire storage site or processing site from compliance with more stringent local ordinances, fire codes, or other applicable statutes.

567—117.2(455B,455D) Definitions. As used in this chapter:

“Bagel cut” means to cut a tire in half along its circumference.

“Baled tire” means a method of volume reduction of waste tires, whereby whole or cut tires are compacted into a bundle and then banded together to form a tire bale. Baled tires shall not be considered processed tires and shall be defined as solid waste, unless they are incorporated into an approved beneficial use project.

“Beneficial use” means the use or application of waste tires or processed tires in a manner that provides a benefit to an end user and that does not pose a threat to the environment or to public health and safety. Use of waste tires or processed tires primarily as a means for land disposal shall not be considered a beneficial use.

“Civil engineering application” means a form of reusing waste tires, either whole or processed, in place of naturally occurring materials in construction, so long as the waste tires provide a defined engineering benefit.

“Crumb rubber” means a material derived by reducing waste tires or other rubber into uniform granules of 3/8 inch or less, with the inherent reinforcing materials such as steel and fiber removed along with other contaminants.

“Cut tire” means a waste tire from which the tire face, tread, or sidewall has been cut or removed for beneficial use. A cut tire shall consist of pieces greater than 18 inches on any one side.

“Department” means Iowa department of natural resources.

“End user” means an industry, utility, business, entity, or individual that receives whole waste tires or processed tires and uses them for a raw material in a manufactured product, for energy recovery, or other beneficial use. A tire processor shall not be considered an end user.

“Energy recovery” means the extraction of the fuel or heat value from whole or processed tires through their controlled combustion at a permitted utility or industry.

“Operator” means the individual, corporation, or party that manages the daily work activities related to the collection, storage, and processing of waste tires and processed tire materials at a waste tire stockpile site or processing facility.

“Owner” means the individual, corporation, or party that is the legal owner of the real estate where a waste tire stockpile site or processing facility exists.

“Passenger tire equivalent” means a conversion measurement that is used to estimate waste tire weights and volume amounts and in which one passenger car tire with a rim diameter of 17 inches or less is equal to 20 pounds. One cubic yard of volume shall contain 15 passenger tire equivalents. Tires larger than a passenger car tire shall be evaluated for volume using this conversion measurement.

“Permit” means a permit issued by the department to establish, construct, modify, own, or operate a waste tire storage or processing site.

“Processed tire” means a tire that has been processed through grinding, shredding, or other means, thereby producing a material that is readily suitable for marketing into product manufacturing, energy recovery, or other beneficial reuse markets. Waste tires that have been compacted, baled, cut, or shredded without a suitable market shall not be considered processed tires and shall be regulated as solid waste.

“Processing” means producing or manufacturing usable materials from waste tires.

“Processing site” means a site which is used for the processing of waste tires and which is owned or operated by a tire processor who has a permit for the site.

“*Site*” includes all contiguous parcels of land under the ownership, management, or financial interest of an owner or operator receiving a permit through this chapter. Public rights-of-way and their easements shall not affect the continuity of a site for the purposes of this chapter.

“*Site of end use*” means a site where processed waste tires are recycled or reused in a beneficial manner authorized by the department.

“*Tire bale.*” See “*baled tire.*”

“*Tire casing*” means a used and worn tire that is suitable for the process of recapping. A tire casing stored for more than one year without being recapped shall be considered a waste tire.

“*Tire collector*” means a permitted person or business that owns or operates a site used for the storage, collection, or deposit of more than 500 waste tires or an authorized vehicle recycler who is licensed by the department of transportation pursuant to Iowa Code section 321H.4 and who owns or operates a site used for the storage, collection, or deposit of more than 3,500 waste tires.

“*Tire processor*” means a permitted individual or business that processes tires through grinding, shredding, or other means, thereby producing a material that is readily suitable for marketing into product manufacturing, energy recovery, or other beneficial reuse markets. “Tire processor” does not mean a person who retreads tire casings or who collects and stores tires.

“*Used tire*” means a tire that previously has been on a vehicle but that retains suitable tread depth and is free of damage or defects so that it may be safely returned to its original purpose.

“*Waste tire,*” as defined in Iowa Code section 455D.11, means a tire that is no longer suitable for its originally intended purpose due to wear, damage, or defect. This definition shall include a tire mounted on a rim, but not on a vehicle. “Waste tire” does not include a nonpneumatic tire.

“*Waste tire hauler*” means an individual or business providing waste tire hauling and disposal services, in accordance with Iowa Code section 9B.1.

“*Waste tire stockpile*” means a site that is used for the storage, collection, or deposit of waste tires or tire bales, including indoor, outdoor, and underground storage.

567—117.3(455B,455D) Waste tire disposal.

117.3(1) *Land disposal prohibited.* Land disposal of waste tires, in whole, cut, or shredded form, is prohibited. Waste tires shall be accepted at a permitted sanitary landfill for final disposal if the tires have first been cut into pieces that are not more than 18 inches on any one side.

117.3(2) *Transport to permitted facilities.* A person who transports waste tires for final disposal is required to dispose of the tires only at a permitted facility.

117.3(3) *Registered waste tire hauler.* A person who contracts with another person to transport more than 40 waste tires in a single load is required to contract only with a person registered as a waste tire hauler, pursuant to Iowa Code section 455D.11I.

567—117.4(455B,455D) Waste tire storage permits and requirements.

117.4(1) *Storage quantity limitations.*

a. No business or individual shall store more than 500 passenger tire equivalents without obtaining a permit for a waste tire stockpile pursuant to 117.4(2).

b. Businesses or individuals may temporarily store up to 1,500 passenger tire equivalents without obtaining a waste tire stockpile permit, subject to the following requirements:

(1) The waste tires are stored only in a mobile container, truck, or trailer, provided or serviced by a registered waste tire hauler.

(2) The waste tires are removed by the waste tire hauler or delivered to a waste tire processor at least every 60 days.

(3) The waste tire generator has a written copy of a contract or service agreement for waste tire disposal services from a registered waste tire hauler.

c. A permitted municipal landfill or solid waste transfer station shall be allowed the storage of up to 1,500 passenger tire equivalents without a permit if the waste tires are removed at least every 120 days and are stored in a manner to minimize the collection of water.

d. Persons who use waste tires for an approved beneficial use shall not be required to obtain a waste tire stockpile permit, subject to their compliance with the provisions of rule 567—117.8(455B,455D).

117.4(2) Waste tire stockpile permit.

a. Any tire collector, business or individual storing more than 500 passenger tire equivalents on any one site must obtain a waste tire stockpile permit. An authorized vehicle recycler, as licensed by the Iowa department of transportation, may store up to 3,500 passenger tire equivalents without a waste tire stockpile permit; any storage beyond this amount shall require full compliance with this subrule. This subrule is applicable to the indoor, outdoor, and underground storage of waste tires. If the site cannot meet the conditions to obtain a waste tire stockpile permit, the waste tires must be removed from the site and properly disposed of within 30 days.

b. Any tire collector, business, individual, owner or operator of a site seeking to construct a waste tire stockpile must obtain the permit from the department before initiating such operations. The permit shall be issued directly to the owner of the site and the designated tire collector that will be operating the stockpile.

c. Permits shall have an annual fee of \$850, payable to the department upon the application for a permit, and due annually beginning each July 1 thereafter at the rate of \$850. Permit fees shall not be prorated. The permit shall be valid for a period of three years from date of issuance. Failure to remit the annual renewal fee shall be cause for the department to revoke the permit.

d. Application for a permit must be made on a form provided by the department and must include, at a minimum, the following:

(1) The name, address, and telephone number of the individual who directly owns the stockpile site.

(2) The name, address, and telephone number of the tire collector at the stockpile site, if different from the owner.

(3) A scaled map showing the areas proposed to be used for the storage of the waste tires, all property boundaries of the site, and the location of all buildings and major improvements on the site and within 300 feet of the property boundary.

(4) A vector control plan to prevent infestations of mosquitoes and rodents for aboveground storage in an open area. The plan shall be prepared by a firm that provides professional vector management services, or by the permittee, if properly trained and certified in vector control procedures. The permittee must provide documentation to show adequate implementation and monitoring of the vector control plan.

(5) A site closure plan. The plan shall describe the actions that would be taken to properly dispose of waste tire materials at the site 30 days prior to any intent to discontinue operations at the site so that, upon discontinuance of the operation, no violations of waste tire or solid waste disposal laws and regulations will exist.

(6) An emergency response and remedial action plan, developed and implemented according to applicable provisions of 567—102.16(455B). The plan shall be developed with the input and review of the local fire department and local emergency management coordinator. The applicant shall provide documentation that an opportunity for such input and review has been received by these local authorities.

(7) A financial assurance instrument in compliance with rule 567—117.7(455B,455D).

(8) A certified check for \$850 made payable to the Department of Natural Resources.

117.4(3) Permitted storage requirements. A permitted waste tire stockpile site shall meet the following minimum permit conditions as set by the department:

a. Aboveground storage, open area.

(1) A waste tire stockpile site shall not contain more than 250,000 passenger tire equivalents.

(2) A single waste tire pile shall not contain more than 50,000 cubic feet of waste tires.

(3) The vertical dimension of a waste tire pile shall not exceed 10 feet.

(4) A single waste tire pile shall not be more than 100 feet in length.

(5) The surface area covered by a waste tire pile shall not exceed 5,000 square feet; the pile may not be constructed upon any waste tire materials or other flammable materials.

(6) A 50-foot fire lane must be maintained between any two tire piles.

(7) Tire bales shall be stored in piles no greater than 10 feet in height, 25 feet in width, or 50 feet in length, with a separation distance of 50 feet between piles of tire bales.

(8) All waste tire piles shall be located at least 50 feet from any building.

(9) Trees and brush shall be cleared within 50 feet of any tire pile.

(10) Combustible materials or volatile chemicals shall not be stored within 50 feet of any tire pile unless stored in approved fire-resistant containers or cabinets.

(11) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 100 feet of any one portion of the tire storage areas.

(12) The site must be graded to prevent any standing pools of water and to limit the runoff and run-on of precipitation.

(13) A waste tire pile must be at least 200 feet from any well, lake, pond, river, stream, sinkhole, or tile line surface intake unless appropriate grading, or the construction of a barrier, dike, or berm, is completed to intercept surface water flows that may impact such interceptors. This distance may then be reduced to 50 feet.

(14) The stockpile site must be secured by a fence or barrier of a minimum of 6 feet in height to impede unauthorized vehicle and personal access. All gates and entry points shall be secured and locked when site personnel are not present.

(15) No open burning of any type shall be allowed at the permitted stockpile site. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any tire storage area.

(16) Signs shall be posted every 100 feet on site, placed for visibility of personnel on site, and state: "Open burning on-site prohibited." The perimeter of the site shall be posted with signs every 100 feet, placed for visibility to those off site, that state: "Highly flammable materials on-site. Burning in area not recommended."

(17) All waste tire piles shall be located at least 300 feet from any property line, street, or public right-of-way.

b. Aboveground storage, enclosed area. Storage of waste tires shall comply with the requirements of 117.4(3) "a," subparagraphs (2) through (7), and the following:

(1) To qualify as an enclosed area, the area must be enclosed in a structure with a permanent roof and lateral protection to prevent precipitation from accumulating within the tires.

(2) An enclosed storage structure shall not contain more than 50,000 passenger tire equivalents.

(3) Combustible materials or volatile chemicals shall not be stored in a structure permitted for tire storage unless stored in approved fire-resistant containers or cabinets.

(4) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 50 feet of any one portion of the tire storage areas.

(5) The storage structure must be secured from unauthorized access.

(6) No open burning of any type shall be allowed at the permitted stockpile site. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any tire storage area. The exterior of the enclosed storage area shall be posted with signs, placed every 100 feet, that state: "Highly flammable materials stored inside. Burning on-site prohibited."

c. Underground storage. To qualify as an underground waste tire storage site, the site must meet the following conditions:

(1) The site must be a licensed grain warehouse.

(2) All underground storage areas must be dry and not prone to the entry of surface water or groundwater.

(3) The underground storage areas must be secured from unauthorized access by locking gates, doors, barriers, or other devices.

(4) The site shall not store any volatile chemicals or other combustible materials within 150 feet of the tire storage area.

(5) For tires placed for storage after July 1, 2002, all such storage areas shall have access lanes, not less than 50 feet in width, arranged so that no portion of the storage area is more than 150 feet from an access lane.

(6) For tires placed for storage after July 1, 2002, the tires shall not be buried by debris, rubble, or other cover within the underground storage site.

(7) The underground storage site shall be limited to a maximum storage capacity of 4 million passenger tire equivalents.

117.4(4) Reporting requirements. The holder of a permit for a waste tire stockpile facility shall make a semiannual report to the department on a form as provided or approved by the department. The report shall state the following:

- a. Quantity of waste tires stored at the facility at the time of reporting, determined by count or weight and reported in passenger tire equivalents.
- b. Quantity of waste tires received from in-state sources during the reporting period.
- c. Quantity of waste tires received from out-of-state sources during the reporting period.
- d. For any waste tires removed from the permitted stockpile site during the reporting period, the quantity shall be given by equivalent count or weight of such waste tires removed. Documentation shall be provided to denote how the reported quantity of tires were disposed of at a permitted facility, reused, or resold.

567—117.5(455B,455D) Used tire storage.

117.5(1) Acceptable used tire storage. A used tire shall be stored in a manner that provides for the following:

- a. Prevention of the collection of water, dirt, or debris within the tire.
- b. Organized storage through stacking, rows, and sorting which provides for accurate descriptions and counts of the types and sizes of tires stored.
- c. Storage conforms to applicable local and state fire codes.

117.5(2) Inventory resale and reuse. Used tires stored for more than one year without documentation of active resale or reuse of tire inventory in a proportion equal to 75 percent of the amount stored shall be considered waste tires and shall be subject to the applicable waste tire storage and disposal rules of this chapter.

567—117.6(455B,455D) Waste tire processing facility permits and requirements.

117.6(1) Waste tire processing facility permit.

a. Any business or individual operating a tire processing facility shall obtain a waste tire processing permit prior to commencing such operations. The permit shall be issued directly to the owner and operator of the company that will be operating the tire processing facility.

b. Facilities that accept waste tires to cut, grind, or compact only for final disposal at a permitted sanitary disposal project shall be required to obtain a waste tire processing permit in accordance with these rules. Such facilities shall not store any cut or shredded waste tire materials for more than 30 days.

c. Businesses or individuals operating mobile waste tire processing equipment shall be required to obtain a waste tire processing permit. The permit shall authorize the operator to provide waste tire processing services statewide; however, mobile operations shall not be allowed to store any processed or whole waste tires at any facility or site owned or operated by the permittee unless specifically authorized within the permit.

d. Businesses or individuals who cut, grind, or compact for disposal waste tires generated directly from operations at their own on-site manufacturing operation or service facility shall not be required to obtain a waste tire processing permit provided that all waste tire materials processed on site are disposed of at least every 30 days at a permitted facility and no more than 500 waste tires are processed monthly.

e. Processing permits shall have an annual fee of \$850, payable to the department upon the application for a permit, and due annually beginning each July 1 thereafter at the rate of \$850. Permit fees shall not be prorated. The permit shall be valid for a period of three years from date of issuance. Failure to remit the annual renewal fee shall be cause for the department to revoke the permit.

f. A permitted processing facility shall have a site closure plan. The plan shall describe the actions that would be taken to properly dispose of all waste tire materials, in whole or processed form, at the site 30 days prior to any intent to discontinue operations at the site so that, upon discontinuance of the operation, no violations of waste tire or solid waste disposal laws and regulations will exist.

g. A permitted processing facility shall have an emergency response and remedial action plan, developed and implemented according to applicable provisions of 567—102.16(455B). The plan shall be developed with the input and review of the local fire department and local emergency management coordinator. The applicant shall provide documentation that an opportunity for such input and review has been received by these local authorities.

h. A permitted processing facility shall obtain financial assurance in accordance with rule 567—117.7(455B,455D), as necessary.

i. Application for a processing permit must be made on a form provided by the department and must include, at a minimum, the following:

(1) The name, address, and telephone number of the individual who directly owns the tire processing facility.

(2) The name, address, and telephone number of the operator of the processing facility, if different from the owner of the tire processing facility.

(3) The type of processing operations to be conducted at the facility, including descriptions of processing equipment and its hourly capacity, operating hours of the facility, and types of processed tire materials to be produced.

(4) A scaled map showing all areas proposed for waste tire storage and processing operations, all property boundaries of the site, and the location of all buildings and major improvements on the site and within 300 feet of the property boundary.

(5) A site closure plan, as referenced in 117.6(1) “*f.*”

(6) An emergency response and remedial action plan, as referenced in 117.6(1) “*g.*”

(7) A certified check for \$850 made payable to the Department of Natural Resources.

(8) A financial assurance instrument in compliance with rule 567—117.7(455B,455D).

117.6(2) *Permitted waste tire processing facility permit requirements.* A permitted waste tire processing facility shall meet the following minimum permit requirements as set by the department. Nothing in this rule shall limit the permitted tire processing facility from compliance with more stringent local ordinances, fire codes, or other applicable statutes.

a. The site must be graded to prevent any standing pools of water and to limit the run-on of precipitation in all areas where waste tires or processed tire material is stored.

b. The processing facility site must be secured by a fence or barrier of a minimum of 6 feet in height to impede unauthorized vehicle and personal access. All gates and entry points shall be secured and locked when site personnel are not present.

c. No open burning of any type shall be allowed at the permitted stockpile site. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any tire storage area.

d. Signs shall be posted every 100 feet on site, placed for visibility of personnel on site, and state: “Open burning on-site prohibited.” The perimeter of the site shall be posted with signs every 100 feet, placed for visibility to those off site, that state: “Highly flammable materials on-site. Burning in area not recommended.”

117.6(3) *Preprocessed whole waste tire storage.*

a. Permitted storage of whole waste tires on site prior to processing shall be limited to the quantity of tires that the facility has the ability to process within a three-day period. This quantity shall be determined by multiplying the actual number of working hours that processing is normally to occur during a typical three-day period by 80 percent of the manufacturer’s specifications of hourly capacity of the processing equipment. After one year of the facility’s operation, documented actual hourly production shall be used for this permit determination in lieu of the manufacturer’s equipment specifications.

b. A tire processor may store an additional three-day capacity of preprocessed waste tires, above the initial three-day capacity, using the same quantity determination as stated in 117.6(3) "a," subject to the tire processor's obtaining and maintaining financial assurance for these additional tires to be stored prior to processing in accordance with rule 567—117.7(455B,455D).

c. Under no circumstance shall a waste tire processor be allowed the storage of more than 75,000 preprocessed waste tires, measured as passenger tire equivalents, through any combination of processing performance or financial assurance determinations. All waste tires on site, including those stored indoors or outdoors or in trucks, trailers, or mobile cages, shall be counted in determining compliance with this rule.

d. Any single waste tire shall not be stored at the processing facility for more than 30 days before the tire is processed.

e. Any tire bales produced or stored at a tire processing facility shall count toward the maximum allowable quantity of preprocessed waste tire storage.

f. All preprocessed tires stored outdoors shall comply with the following:

- (1) A single waste tire pile shall not contain more than 50,000 cubic feet of waste tires.
- (2) The vertical dimension of a waste tire pile shall not exceed 10 feet.
- (3) A single waste tire pile shall not be more than 100 feet in length.
- (4) The surface area covered by a waste tire pile shall not exceed 5,000 square feet.
- (5) A 50-foot fire lane must be maintained between any two tire piles.
- (6) A waste tire pile shall not be located within 50 feet of any property line, street, public right-of-way, or building.
- (7) A tire pile must be at least 200 feet from any well, lake, pond, river, stream, sinkhole, or tile line surface intake unless appropriate grading, or the construction of a barrier, dike, or berm, is completed to intercept surface water flows that may impact such interceptors. This distance may then be reduced to 50 feet.
- (8) Trees and brush shall be cleared within 50 feet of any tire pile.
- (9) Combustible materials or volatile chemicals shall not be stored within 50 feet of any tire pile unless stored in approved fire-resistant containers or cabinets.
- (10) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 100 feet of any one portion of tire storage areas.
- (11) Waste tires stored in trucks, trailers, or mobile containers must be at least 10 feet from any property line or building.
- (12) Tire bales shall be stored in piles no greater than 10 feet in height, 25 feet in width, or 50 feet in length, with a separation distance of 50 feet between piles of tire bales.

g. Indoor storage of waste tires shall not be allowed within 20 feet of any waste tire processing or handling equipment. All waste tires being actively unloaded and fed into processing equipment, including those being off-loaded from trucks, trailers, or mobile containers, shall be cleared at least 20 feet away from the processing equipment by the end of the last working shift of the day. Any remaining indoor storage shall comply with the requirements of 117.4(3) "b," subparagraphs (3) through (7), and the following:

- (1) No more than 25,000 passenger tire equivalents shall be stored indoors.
- (2) Combustible materials or volatile chemicals shall not be stored within 25 feet of any waste tire storage area unless they are stored in approved containers pursuant to applicable fire codes.
- (3) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 50 feet of any one portion of indoor tire storage areas.
- (4) The storage structure must be secured from unauthorized access.

117.6(4) Processed tire storage.

a. Storage of processed tire materials at a tire processing facility shall be limited to the volume of material in aggregate that the processor manufactures within a consecutive 60-day period, using the facility's daily average capacity for processing whole tires as determined in 117.6(3) "a." The department shall have the final authority for determining the allowable quantities of processed tire materials to be stored.

b. Under no circumstances shall the equivalent of more than 500,000 processed tires, or 5,000 tons of material, be stored at the processing site.

c. All processed tire material at the site of processing shall be stored as follows:

(1) Processed tires that have been shredded or ground into pieces that are 9 inches or smaller shall be stored in piles no more than 15 feet in height, 100 feet in length, and 50 feet in width and shall contain no more than 75,000 cubic feet of product by volume.

(2) Processed tires cut into strips, sidewalls, or other pieces larger than 9 inches shall be stored in piles no more than 10 feet in height, 100 feet in length, and 50 feet in width and shall contain no more than 50,000 cubic feet of product by volume.

(3) A 50-foot fire lane must be maintained between piles of processed tire material, with the base of the lane kept free from the accumulation of waste tire-derived residuals or materials or other debris.

(4) All processed tire material shall be stored at least 50 feet from any property line, street, public right-of-way, or building.

(5) Trees and brush shall be cleared within 50 feet of the storage of all processed tire material.

(6) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 100 feet of any one portion of processed tire storage areas.

d. For indoor storage of more than 5,000 cubic feet of processed tire material, the material shall be stored on concrete floors and all retaining walls, bins, barriers, and roofing material for the material storage shall be constructed of nonflammable materials.

e. The processor must demonstrate a reasonable market demand for all types and quantities of processed product stored at the processing site. Market demand for processed waste tire products shall be demonstrated by the processor through at least one of the following criteria:

(1) Active contracts, purchase orders, or supply agreements with an end user, noting quantities of material required by the end user, specifications of the quality of the product required by the end user, and monthly or annual demand of product by the end user from the processor. This information shall be made available for review by the department as required to determine compliance with this rule.

(2) Historic, ongoing demand for product by an end user or type of end user, within the state or surrounding region.

(3) Information and evidence that any proposed new product or use for processed waste tires produced by the tire processor will be marketed in a timely fashion, with sufficient demand and consumption by end user markets.

f. The department shall have the final authority in determining storage limitations, including prohibition, for processed tire products when active markets are not evident from information provided by the tire processor.

117.6(5) Reporting requirements. The holder of a permit for a waste tire processing facility shall make a semiannual report to the department on a form as provided or approved by the department. The report shall state the following:

a. Quantity of waste tires received by the facility during the reporting period.

b. Quantity of waste tires received by the facility from in-state sources.

c. Quantity of waste tires received by the facility from out-of-state sources.

d. Quantity of unprocessed waste tires on hand at the facility at the time of reporting.

e. Quantity of waste tires processed and delivered to end users during the reporting period, by product type, with determinations of quantities of product delivered to identified in-state and out-of-state markets or sites.

f. Quantity of processed tire material currently stored at the facility, by product type.

117.6(6) Disposal of solid wastes from tire processing.

a. All waste materials, residuals, and scraps derived from tire processing operations shall be regulated as solid waste. These materials include, but are not limited to, tire bead rings, metal wire, synthetic fibers, and cording.

b. All of these solid wastes must be disposed of at least every 60 days at a permitted sanitary disposal project, scrap recycler, or location, as approved by the department.

c. Documentation of the disposal of these solid wastes must be kept at the processing facility for a period of three years.

567—117.7(455B,455D) Financial assurance for waste tire sites. Permitted waste tire stockpile sites and waste tire processing facilities must obtain and submit a financial assurance instrument to this department for permitted waste tire storage, in accordance with these rules. The financial assurance instrument shall provide monetary funds to properly dispose of any waste tires that may remain at a waste tire site due to the owner's or operator's failure to properly close the site within 30 days of permit termination, revocation, or expiration. Waste tire storage and processing sites operated by state, county, or city agencies or operated in conjunction with a sanitary landfill shall not be required to obtain financial assurance instruments.

117.7(1) No permit without financial assurance. A permit shall not be issued to the owner and operator of a waste tire processing or storage site until a financial assurance instrument has been submitted to and approved by the department as necessary.

117.7(2) Financial assurance amounts required.

a. Waste tire stockpile sites shall have financial assurance coverage equal to \$2.50 per waste tire collected and stored.

b. Waste tire processing sites shall have financial assurance coverage equal to \$2.50 per waste tire stored above the permitted three-day processing capacity, in accordance with 117.6(3) "b."

117.7(3) Acceptable financial assurance instruments. Financial assurance may be provided by cash, surety bond, letter of credit, secured trust fund, or corporate guarantee, as follows:

a. Cash payments shall be provided by a certified check, made payable to the Department of Natural Resources.

b. A surety bond must be written by a company authorized by the commissioner of insurance to do business in the state, and the surety bond shall comply with the following:

(1) The bond shall be in a form approved by the commissioner of insurance and shall be payable to the department of natural resources.

(2) The bond must be continuous until canceled by the surety. Written notice of intent to cancel the bond must be provided to the owner and operator and to the department at least 90 days before the effective date of cancellation.

c. A secured trust fund shall name the department of natural resources as the entity authorized to draw funds from the trust, subject to proper notification to the trust officer of failure by the permittee to comply with proper removal and disposal of waste tires covered by the financial assurance provided by the trust.

d. The department may require, at the expense of the permittee, a financial audit of an individual or firm requesting the use of a letter of credit or corporate guarantee.

117.7(4) Financial assurance cancellation and permit suspension.

a. Within 30 days of receipt of a written notice of cancellation of financial assurance by the surety, the owner or operator must provide the department an alternative financial assurance instrument. If a means of continued financial assurance is not provided within that 30 days, the department shall suspend the permit.

b. The owner or operator shall perform proper closure within 30 days of the permit suspension. For the purpose of this rule, proper closure means removal of all tires and related products from the site or facility through acceptable disposal or processing options.

c. If the owner or operator does not properly close the site within the 30-day period allowed, the department shall file a claim with the surety company, trust, or other financial assurance instrument provider to collect the amount of funds necessary to properly close the site.

d. Any financial assurance instrument provided to the department in compliance with this rule must be payable to the department and must remain in continuous effect until the director of the department gives written notification to the owner, operator, and surety provider that the covered site has been properly closed. An owner or operator who elects to terminate a permitted activity, or whose renewal application has been denied, or whose permit has been suspended or revoked for cause, must

submit within 30 days of the termination of the permit a schedule for completing proper closure of the terminated activity. Closure completion cannot exceed 60 days from the date of termination of the permit.

e. The director may request payment from any surety to provide for the purpose of completing closure when one of the following circumstances exists:

(1) The owner or operator is more than 15 days late in providing a schedule for closure or for meeting any date in the schedule for closure.

(2) The owner or operator declares an economic inability to comply with this rule, either by sending written notification to the director or through an action such as, but not limited to, filing for bankruptcy. [ARC 6147C, IAB 1/12/22, effective 2/16/22]

567—117.8(455B,455D) Beneficial uses of waste tires.

117.8(1) *Role of the department.* In order to ensure that all approved uses of whole or processed waste tires do not pose a threat to the environment or to the public health, welfare, and safety, the department shall have the authority to determine if a proposed use of waste tires is beneficial and shall have the authority to approve or deny applications if such a benefit is not evident. Proposed beneficial uses in which the primary purpose of the project is as a land disposal mechanism shall not be approved.

117.8(2) *Waste tire products exempted.* The following end uses of materials derived, processed, or recycled from waste tires shall be considered beneficial reuses under this chapter and shall not require individual beneficial use designations from the department for their use at a specific site of end use.

- a. Asphalt rubber, including asphalt cement modified with a crumb rubber modifier;
- b. Buffing rubber, defined as high quality tire rubber, which is a by-product from the conditioning of tire casings in preparation for retreading;
- c. Carbon black derived from the thermal or oxidative decomposition of tires;
- d. Crumb rubber material, including rubber granules used for soil amendments or surfacing materials for playgrounds, equestrian arenas, and athletic fields;
- e. Crumb rubber modifiers used in asphalt paving materials;
- f. Tire-derived fuel (TDF), which is a fuel derived from waste tires, including whole tires, processed into pieces that satisfy the specifications of the end user for use as either a primary or supplemental fuel. Use of TDF requires modification of air source construction and operation permits if such use is not already recognized in the end user's permit.

117.8(3) *Beneficial uses for whole waste tires.* This subrule establishes acceptable beneficial uses for whole waste tires and required notifications and approvals that must be obtained from the department prior to placement of waste tires at the site of end use. The following applications shall be considered acceptable beneficial uses for whole waste tires:

- a. Tire swings, sandboxes, or other equipment for child play areas on residential lots or at schools, care centers, and recreational areas;
- b. Dock bumpers at vehicle loading/unloading docks or marine docks;
- c. Crash barriers at racetracks;
- d. Agricultural uses to hold down covers over hay, silage, and other agricultural commodities. When not in use, the tires should be neatly stacked;
- e. Structures for military and police training at facilities under ownership or management of local, state, or federal agencies;
- f. Artificial fishing reefs and fish habitat structures constructed at facilities under ownership or management of a county conservation board, the department, or a federal agency;
- g. Stream bank erosion control and culvert outlet tire mats, constructed as follows:
 - (1) The tires shall be placed in a single layer and banded together with a noncorrosive strip;
 - (2) All the tires shall be drilled or punctured to allow for outflow of air to prevent their flotation when submerged;
 - (3) The banded mat shall be anchored with cable at least 0.5 inches in diameter;
 - (4) The cables shall then be fastened to buried anchors made of treated timbers or concrete, at least every 50 feet along the top of the mat and intermittently in the middle;

- (5) The mat shall extend 4 to 6 feet out on the channel bottom;
- (6) The outermost row on the channel bottom shall be filled with rocks or broken concrete;
- (7) Vegetation shall be planted in and around the tire mat; rows within the tire mat that are too wet for vegetation establishment shall be filled with rocks or broken concrete; and
- (8) Any variation from these design standards shall be acceptable only under the direction of an Iowa-licensed professional engineer.

h. Construction of residential dwelling structures or other buildings for which a building permit has been obtained from local government officials;

i. Culvert piping made from waste tires with a rim diameter of 21 inches or greater and subject to the following design criteria:

- (1) The maximum depth of water flows within the culvert shall be no greater than 75 percent of the piping diameter;
- (2) Sand or similar aggregate material must be installed in the lower portions of the culvert piping to provide ballast and limit mosquito infestations;
- (3) The culvert must not be installed below the highest seasonal groundwater elevation;
- (4) The maximum depth of earthen or aggregate coverings over the culvert shall not exceed the outside diameter of the whole tires used in the culvert;
- (5) Soils used for backfill around and above the culvert shall be compacted so as to provide a culvert deflection of less than 5 percent of the outside diameter; and
- (6) Vertical sections of tire culvert piping shall be designed with safety measures to prevent unauthorized access by or hazards to children and animals.

117.8(4) *Required notifications and approval for whole tire uses.* Prior to the installation or placement of waste tires for a beneficial use as approved in subrule 117.8(3), the owner or operator of the site of end use shall properly notify or seek approval from the department for the proposed beneficial use under the following circumstances. These circumstances apply to the total combined amount of tire material that already is, or is intended to be, used at the site:

a. For applications of less than 250 whole waste tires, notification to the department shall not be required, subject to the end user's compliance with all requirements of this chapter.

b. For applications of 250 to 500 whole waste tires, the department shall be notified in writing no less than 30 days prior to the construction or placement of waste tires for a beneficial use, with the following information provided:

- (1) The name, address, and telephone number of the owner, operator, or individual responsible for the beneficial use application at the site of end use;
- (2) The address of the site of beneficial end use;
- (3) The estimated total number of tires to be used;
- (4) A description of the beneficial use application;
- (5) A project time line, including proposed project start and end dates; and
- (6) A statement that explains how the site owner shall properly dispose of such waste tires in the event that the beneficial use is discontinued or dismantled.

c. For applications of more than 500 waste tires, approval by the department shall be obtained prior to any such applications. Approval requests shall be made to the department in writing and shall contain all information as requested in paragraph 117.8(4) "b," as well as a scaled plan of the site of end use with areas noted where whole waste tires are to be placed, including locations of the site of end use property lines and the location of any structures within 300 feet of the site of end use.

117.8(5) *Prevention of public health risks for whole tire uses.* All beneficial uses of whole waste tires as approved in this rule shall have incorporated into their design and construction measures to prevent the retention and stagnation of water, in the event that such conditions are likely to exist. These measures shall include, at a minimum, the piercing or drilling of holes in whole waste tires to allow for water drainage. Such measures shall be designed to minimize risks to public health and safety caused by the breeding of disease-carrying insects and rodents.

117.8(6) *Beneficial uses for shredded waste tires.* This subrule establishes acceptable beneficial uses for shredded waste tires and required design criteria that shall be observed in the placement of shredded

tires at the site of end use. The following applications shall be considered acceptable beneficial uses for shredded waste tires:

a. Horizontal drainage structures (French drains) designed to lower the groundwater table and transport excess water to another location or drainage structure and constructed as follows:

(1) The elevation of the drain outlet must be lower than the average seasonal groundwater table to allow gravity drainage through the drainage structure;

(2) The drainage structure width shall be no less than 3 feet and no more than 6 feet;

(3) The minimum depth of shredded tire material in the trench shall be greater than 4 feet;

(4) The minimum thickness of backfill over the trench shall be 2 feet;

(5) Headloss of water flowing through the drain shall be due to elevation changes only; and

(6) Any site of end use to contain drainage structures composed of more than 300 cubic yards of shredded tires shall be constructed under the auspices of an Iowa-licensed professional engineer.

b. On-site wastewater treatment and disposal system construction, to include use of shredded tires in lateral trenches and as fill to cover distribution pipes under the following conditions:

(1) The on-site wastewater treatment and disposal system is constructed and permitted according to the requirements of 567—Chapter 69;

(2) Shredded tires used in the system have a minimum dimension of 1 inch on any one side and a maximum dimension of 3 inches on any one side; and

(3) The administrative authority responsible for issuance of the permit approves the beneficial use. The authority shall have the sole discretion to deny use of shredded tires in system construction based on any engineering or design principle concerns.

c. Lightweight fill in public roads, public road embankment construction, and other public civil engineering applications if all of the following conditions are met:

(1) The tire shreds are of uniform composition and sizing;

(2) The tire shreds are not mixed with other solid wastes, vegetation, composted materials, or other processed tire products, including separated tire bead wire, steel cording or nylon fibers;

(3) The tires are not placed in direct contact with surface water or groundwater;

(4) The shredded tires are isolated from overburden materials by a protective membrane or liner to prevent intrusion and settling of overburden; and

(5) An Iowa-licensed professional engineer designs and supervises the incorporation of shredded tires in beneficial uses of this manner.

d. Structural foundation drainage material used in a project as approved through a local building permit;

e. A bulking agent for composting operations at permitted composting facilities, with tire shreds used to be no larger than 3 inches on any one side; and

f. Leachate drainage medium at a permitted municipal landfill, provided that the medium meets engineering and design requirements for the landfill's operating permit, pursuant to 567—Chapter 102.

117.8(7) Beneficial uses for baled tires. This subrule establishes acceptable beneficial uses for baled tires and required notifications and approvals that must be obtained from the department prior to placement of baled tires at the site of end use.

a. Beneficial uses. Civil engineering applications, including stream bank and soil erosion control projects, shall be considered acceptable beneficial use applications for baled tires. Such applications involving the combined use of more than 50 cubic yards of baled tires at any one site of end use must be conducted under the immediate direction of one of the following entities:

(1) A federal agency including, but not limited to, the Army Corps of Engineers, the Natural Resources Conservation Service, or the Bureau of Land Management;

(2) A state agency including, but not limited to, the Iowa department of transportation; or

(3) An Iowa-licensed professional engineer.

b. Required notifications and approval. Prior to the installation or placement of baled tires for beneficial uses as approved in this rule, the owner or operator of the site of end use shall properly notify or seek approval from the department for the proposed beneficial use under the following circumstances.

These circumstances apply to the total combined amount of tire material that already is, or is intended to be, used upon the site:

(1) For applications of less than 25 cubic yards of baled tires at a site of end use, notification to the department shall not be required, subject to the end user's compliance with all requirements of this chapter.

(2) For applications of 25 to 50 cubic yards of baled tires, the department shall be notified in writing no less than 30 days prior to the construction or placement of baled tires for a beneficial use, with the following information provided:

1. The name, address, and telephone number of the owner, operator, or individual responsible for the beneficial use application at the site of end use;
2. The address of the site of beneficial end use;
3. The estimated total number of cubic yards of tires to be used;
4. A description of the beneficial use application;
5. A project time line, including proposed project start and end dates; and
6. A statement that explains how the site owner shall properly dispose of such baled tires in the event that the beneficial use is discontinued or dismantled.

(3) For beneficial use applications of more than 50 cubic yards of baled tires, approval by the department shall be obtained prior to any such applications. Approval requests shall be made to the department in writing and shall contain all information as requested in subparagraph 117.8(7) "b"(2), as well as a scaled plan of the site of end use with areas noted where baled tires are to be placed, including locations of the site of end use property lines, and the location of any structures within 300 feet of the site of end use.

117.8(8) *Beneficial uses for cut tires.* This subrule establishes acceptable beneficial uses for cut tires. Notifications and approvals shall not be required by the department prior to the use or placement of cut tires at a site of end use as approved in this rule, so long as such uses have incorporated into their design and construction measures to prevent the retention and stagnation of surface water, in the event that such conditions are likely to exist. Such measures shall be designed to minimize risks to public health and safety caused by the breeding of disease-carrying insects and rodents. The following applications shall be considered acceptable beneficial uses for cut tires:

- a. Agricultural uses to hold down covers over hay, silage, and other agricultural commodities;
- b. Traffic control devices for use in public roadway construction projects;
- c. Portable surfaces manufactured from tire faces or tread;
- d. Silt collection fences manufactured from tire faces or tread; and
- e. Bagel-cut tires used for underturf water conservation and turf growth enhancement systems at golf courses.

117.8(9) *Requests for approval of other beneficial use designations.* The department shall have the authority to approve or deny requests for beneficial use applications for whole, shredded, baled, or cut waste tires that are not specifically addressed within this chapter. Requests for such use determinations shall be made to the department in writing. The department may request project descriptions and supporting scientific and engineering data to determine if a request for a beneficial use designation is warranted. The department shall approve or deny a request for approval within 30 days of receipt of such a request and supporting data if so required by the department. The department shall have the sole authority to deny a beneficial use request if the department determines that any one of the following conditions exists:

- a. The requested beneficial use designation poses a risk to the environment or to the public health, welfare, and safety;
- b. The requested beneficial use designation is determined to have the primary purpose as a land disposal mechanism, and any beneficial use would be incidental in nature; or
- c. The requested beneficial use designation would not be in accordance with other applicable federal, state, or local laws, regulations, and ordinances.

117.8(10) *Compliance with local, state, and federal regulations.* Any proposed beneficial use project or application of whole, shredded, baled, or cut waste tires may require approval or permits from federal,

state, and local agencies, under other laws, regulations, and ordinances, as applicable, including but not limited to the following:

a. The Army Corps of Engineers, for projects involving navigable waterways and other waterways over which it has jurisdiction;

b. Waste tire beneficial use applications involving placement on or within land or waters contained within a floodplain which require approval from the department's floodplain management program, as specified in 567—Chapters 70 through 75; and

c. Local building codes, zoning and land-use covenants, ordinances, and guidelines.

117.8(11) *Storage of waste tires prior to beneficial use application.* Whole, shredded, cut, or baled waste tires to be used for a beneficial use application may be stored at the site of end use, subject to the following requirements:

a. Such tire materials shall be stored in piles or bales for no longer than 60 days prior to the date of application, except for whole waste tires for agricultural uses as specified in paragraph 117.8(3) “*d.*”

b. All storage of such waste tire materials shall be conducted in accordance with the uniform fire code and the requirements of 117.4(3) and 117.6(4) “*c*” as applicable.

c. Any storage of waste tires associated with a proposed beneficial reuse project at a site of end use for longer than 60 days without implementation of completion of a beneficial reuse project shall be subject to the waste tire storage permitting requirements as contained in rule 567—117.4(455B,455D).

These rules are intended to implement Iowa Code sections 455B.301 to 455B.307 and 455D.11 to 455D.11H.

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BEHAVIORAL SCIENTISTS

- CHAPTER 31 LICENSURE OF MARITAL AND FAMILY THERAPISTS, MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR ANALYSTS
- CHAPTER 32 CONTINUING EDUCATION FOR MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS
- CHAPTER 33 DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS, MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR ANALYSTS

CHAPTER 31
LICENSURE OF MARITAL AND FAMILY THERAPISTS,
MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR
ANALYSTS

[Prior to 1/30/02, see 645—Chapter 30]

645—31.1(154D) Definitions. For purposes of these rules, the following definitions shall apply:

“*ACA*” means the American Counseling Association.

“*Active license*” means a license that is current and has not expired.

“*AMFTRB*” means the Association of Marriage and Family Therapy Regulatory Boards.

“*AMHCA*” means the American Mental Health Counselors Association.

“*BACB*” means the Behavior Analyst Certification Board.

“*Board*” means the board of behavioral science.

“*CCE*” means the Center for Credentialing and Education, Inc.

“*Course*” means three graduate semester credit hours.

“*Department*” means the department of public health.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as a marital and family therapist, mental health counselor, behavior analyst, or assistant behavior analyst in the state of Iowa.

“*License expiration date*” means September 30 of even-numbered years for marital and family therapists and mental health counselors, and means the expiration date of the certification issued by the Behavior Analyst Certification Board for behavior analysts and assistant behavior analysts.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice mental health counseling or marital and family therapy to an applicant who is or has been licensed in another state.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of marital and family therapists and mental health counselors who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*Mental health setting*” means a behavioral health setting where an applicant is providing mental health services including the diagnosis, treatment, and assessment of emotional and mental health disorders and issues.

“*NBCC*” means the National Board for Certified Counselors.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—31.16(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice mental health counseling or marital and family therapy to an applicant who is currently licensed in another state which has the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Temporary license” means a license to practice marital and family therapy or mental health counseling under direct supervision of a qualified supervisor as determined by the board by rule to fulfill the postgraduate supervised clinical experience requirement in accordance with this chapter.

[ARC 9547B, IAB 6/1/11, effective 7/6/11; ARC 2845C, IAB 12/7/16, effective 1/11/17; ARC 4390C, IAB 4/10/19, effective 3/22/19; ARC 4557C, IAB 7/17/19, effective 8/21/19; ARC 5010C, IAB 3/25/20, effective 4/29/20]

645—31.2(154D) Requirements for permanent and temporary licensure as a mental health counselor or marriage and family therapist. The following criteria shall apply to licensure:

31.2(1) The applicant shall complete an application.

31.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

31.2(3) Each application shall be accompanied by the appropriate fees payable to the Board of Behavioral Science. The fees are nonrefundable.

31.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board of behavioral science have been received by the board or an equivalency evaluation completed by the Center for Credentialing and Education, Inc. (CCE) has been received by the board. The applicant shall present proof of meeting the educational requirements. Documentation of such proof shall be on file in the board office with the application and include one of the following:

a. For licensure as a marital and family therapist, an official transcript verifying completion of a marital and family therapy program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as defined in subrule 31.4(1) or an equivalency evaluation of the applicant’s educational credentials completed by CCE as defined in subrule 31.4(2).

b. For licensure as a mental health counselor, an official transcript verifying completion of a mental health counseling program accredited by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as defined in subrule 31.6(1) or an equivalency evaluation of the applicant’s educational credentials completed by CCE as defined in subrule 31.6(2).

31.2(5) The candidate for permanent licensure shall have the examination score sent directly from the testing service to the board. The candidate for temporary licensure must successfully complete the examination before the temporary license is issued.

31.2(6) The candidate for permanent licensure shall submit the required attestation of supervision forms documenting clinical experience as required in rule 645—31.5(154D) for marital and family therapy and rule 645—31.7(154D) for mental health counseling.

31.2(7) The candidate for temporary licensure for the purpose of fulfilling the postgraduate supervised clinical experience requirement must submit the Supervised Clinical Experience: Approval and Attestation form to the board and receive approval of the candidate’s supervisor(s) prior to licensure. The temporary licensee must notify the board immediately in writing of any proposed change in supervisor(s) and obtain approval of any change in supervisor(s). Within 30 days of completion of the supervised clinical experience, the attestation of the completed supervised experience must be submitted to the board office. The temporary licensee shall remain under supervision until a permanent license is issued.

31.2(8) A temporary license for the purpose of fulfilling the postgraduate supervised clinical experience requirement is valid for three years and may be renewed at the discretion of the board.

31.2(9) A licensee who was issued an initial permanent license within six months prior to the renewal shall not be required to renew the license until the renewal date two years later.

31.2(10) Submitting complete application materials. An application for a temporary or permanent license will be considered active for two years from the date the application is received. If the applicant

does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

[ARC 8152B, IAB 9/23/09, effective 10/28/09; ARC 0777C, IAB 6/12/13, effective 7/17/13; ARC 1758C, IAB 12/10/14, effective 1/14/15; ARC 2845C, IAB 12/7/16, effective 1/11/17; ARC 4390C, IAB 4/10/19, effective 3/22/19; ARC 4557C, IAB 7/17/19, effective 8/21/19; ARC 5767C, IAB 7/14/21, effective 8/18/21]

645—31.3(154D) Examination requirements for mental health counselors and marital and family therapists. The following criteria shall apply to the written examination(s):

31.3(1) The applicant shall take and pass the following examinations in order to qualify for licensing:

a. For a marital and family therapist license, the Association of Marriage and Family Therapy Regulatory Board (AMFTRB) Examination in Marital and Family Therapy.

b. Prior to January 1, 2022, for a mental health counselor license or a temporary mental health counselor license, the National Counselor Examination (NCE) of the NBCC or the National Clinical Mental Health Counselor Examination (NCMHCE) of the NBCC.

c. Effective January 1, 2022, for a temporary mental health counselor license, the NCE of the NBCC or the NCMHCE of the NBCC.

d. Effective January 1, 2022, for a mental health counselor license, the NCMHCE of the NBCC.

31.3(2) Examination information will be provided when the applicant has been approved to take the examination.

31.3(3) The board will notify the applicant in writing of examination results.

31.3(4) Persons determined by the board not to have performed satisfactorily may apply for reexamination.

31.3(5) The passing score on the written examination shall be the passing point criterion established by the appropriate national testing authority at the time the test was administered.

31.3(6) An applicant who is requesting approval to take the licensure examination prior to graduation shall:

a. Apply for licensure by creating an account and paying online at ibplicense.iowa.gov.

b. Have a letter on official school letterhead sent directly from the program director to the board indicating that the applicant is in good academic standing; that the applicant will graduate from the program within three months of the date on the letter; and the applicant's anticipated date of graduation.

[ARC 2845C, IAB 12/7/16, effective 1/11/17; ARC 4390C, IAB 4/10/19, effective 3/22/19; ARC 4557C, IAB 7/17/19, effective 8/21/19; ARC 5010C, IAB 3/25/20, effective 4/29/20; ARC 5767C, IAB 7/14/21, effective 8/18/21]

645—31.4(154D) Educational qualifications for marital and family therapists. The applicant must complete the required semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in 31.4(2); no course may be used more than once. The applicant must present proof of completion of the following educational requirements for licensure as a marital and family therapist:

31.4(1) Accredited program. Applicants must present with the application an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent; or

31.4(2) Content-equivalent program. Applicants must present an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy, behavioral science, or a counseling-related field from a college or university accredited by an agency recognized by the United States Department of Education, which is content-equivalent to a graduate degree in marital and family therapy. Applicants who

entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent. Graduates from non-COAMFTE-accredited marital and family therapy programs shall provide an equivalency evaluation of the graduates' educational credentials by the Center for Credentialing and Education, Inc. (CCE), website cce-global.org. The professional curriculum must be equivalent to that stated in these rules. Applicants shall bear the expense of the curriculum evaluation. In order to qualify as a "content-equivalent" degree, a graduate transcript must document:

a. At least 9 semester hours or the equivalent in each of the three areas listed below:

(1) Theoretical foundations of marital and family therapy systems. Any course which deals primarily in areas such as family life cycle; theories of family development; marriage or the family; sociology of the family; families under stress; the contemporary family; family in a social context; the cross-cultural family; youth/adult/aging and the family; family subsystems; individual, interpersonal relationships (marital, parental, sibling).

(2) Assessment and treatment in family and marital therapy. Any course which deals primarily in areas such as family therapy methodology; family assessment; treatment and intervention methods; overview of major clinical theories of marital and family therapy, such as communications, contextual, experiential, object relations, strategic, structural, systemic, transgenerational.

(3) Human development. Any course which deals primarily in areas such as human development; personality theory; human sexuality. One course must be psychopathology.

b. At least 3 semester hours or the equivalent in each of the two areas listed below:

(1) Ethics and professional studies. Any course which deals primarily in areas such as professional socialization and the role of the professional organization; legal responsibilities and liabilities; independent practice and interprofessional cooperation; ethical issues in marital and family counseling; and family law.

(2) Research. Any course which deals primarily in areas such as research design, methods, statistics; research in marital and family studies and therapy.

If the applicant has taught a graduate-level course as outlined above at a college or university accredited by an agency recognized by the United States Department of Education or the Council on Professional Accreditation, that course will be credited toward the course requirements.

c. A graduate-level clinical practicum in marital and family therapy of at least 300 clock hours is required for all applicants.

[ARC 7673B, IAB 4/8/09, effective 4/30/09; ARC 9547B, IAB 6/1/11, effective 7/6/11; ARC 2845C, IAB 12/7/16, effective 1/11/17]

645—31.5(154D) Clinical experience requirements for marital and family therapists.

31.5(1) The supervised clinical experience shall:

a. Be a minimum of two years of full-time, postgraduate supervised professional work experience in marital and family therapy.

b. Be completed following completion of the practicum, internship, and all graduate coursework, with the exception of the thesis.

c. Include successful completion of at least 3,000 hours of marital and family therapy that shall include at least 1,500 hours of direct client contact and 200 hours of clinical supervision. Applicants who entered a program of study prior to July 1, 2010, shall include successful completion of 200 hours of clinical supervision concurrent with 1,000 hours of marital and family therapy conducted in person with couples, families and individuals.

d. Be completed in person or by electronic means.

(1) Up to 50 percent of all supervision may be completed by telephone.

(2) Supervision by electronic means is acceptable if the system utilized is a confidential, interactive, secure, real-time system that provides for visual and audio interaction between the licensee and the supervisor.

e. Include in the 200 hours of clinical supervision at least 100 hours of individual supervision.

f. Follow and maintain a plan throughout the supervisory period established by the supervisor and the licensee. Such a plan must be kept by the licensee for a period of five years following receipt of

the permanent license and must be submitted to the board upon request. The plan for supervision shall include:

- (1) The name, license number, date of licensure, address, telephone number, and email address (when available) of the supervisor;
- (2) The name, license number, address, telephone number, and email address (when available) of supervisee;
- (3) Employment setting in which experience will occur;
- (4) The nature, duration and frequency of supervision;
- (5) The number of hours of supervision per month;
- (6) The supervisor/licensees type (individual/group) and mode (face-to-face/electronic) of supervision;
- (7) The methodology for secure transmission of case information;
- (8) The beginning date of supervised professional practice and estimated date of completion;
- (9) The goals and objectives for the supervised professional practice; and
- (10) The signatures of the supervisor and licensee, and the dates of signatures.

g. Have only supervised clinical contact credited for this requirement.

31.5(2) To meet the requirements of the supervised clinical experience:

a. The supervisee must:

- (1) Meet with the supervisor for a minimum of four hours per month;
- (2) Offer documentation of supervised hours signed by the supervisor;
- (3) Compute part-time employment on a prorated basis for the supervised professional experience;
- (4) Have the background, training, and experience that is appropriate to the functions performed;
- (5) Have supervision that is clearly distinguishable from personal psychotherapy and is contracted in order to serve professional/vocational goals;
- (6) Have individual supervision that shall be in person with no more than one supervisor to two supervisees;
- (7) Have group supervision that may be completed with up to ten supervisees and a supervisor; and
- (8) Not participate in the following activities which are deemed unacceptable for clinical supervision:

1. Peer supervision, i.e., supervision by a person of equivalent, but not superior, qualifications, status, and experience.

2. Supervision, by current or former family members, or any other person, in which the nature of the personal relationship prevents, or makes difficult, the establishment of a professional relationship.

3. Administrative supervision, e.g., clinical practice performed under administrative rather than clinical supervision of an institutional director or executive.

4. A primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar.

5. Consultation, staff development, or orientation to a field or program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

b. Effective October 1, 2020, the supervisor shall:

- (1) Be an Iowa-licensed marital and family therapist with a minimum of three years of clinical experience following licensure or shall be a supervisor or supervisor candidate approved by the American Association for Marriage and Family Therapy Commission on Supervision; or

- (2) Be an Iowa-licensed mental health counselor in Iowa with at least three years of clinical experience following licensure or shall be approved by the National Board for Certified Counselors (NBCC) as a supervisor; or

- (3) Be an Iowa-licensed social worker independent level with at least three years of clinical experience following licensure at the independent level; and

- (4) Have completed at least a six-hour continuing education course in counseling supervision or one master's level course in counseling supervision; and

- (5) Meet a minimum of four hours per month with the supervisee; and

- (6) Provide training that is appropriate to the functions to be performed; and

(7) Ensure that therapeutic work is completed under the professional supervision of a supervisor; and

(8) Not supervise any marital and family therapy or permit the supervisee to engage in any therapy that the supervisor cannot perform competently.

c. Exceptions to paragraph 31.5(2) “b” shall be made on an individual basis. Requests for alternative supervisors must be submitted in writing, and the board must approve the supervisor prior to commencement of the supervision.

31.5(3) An applicant who has obtained American Association for Marriage and Family Therapy (AAMFT) clinical membership is considered to have met the clinical experience requirements of rule 645—31.5(154D). The applicant shall request that proof of current clinical membership be sent directly from AAMFT to the board.

[ARC 7673B, IAB 4/8/09, effective 4/30/09; ARC 8152B, IAB 9/23/09, effective 10/28/09; ARC 9547B, IAB 6/1/11, effective 7/6/11; ARC 0777C, IAB 6/12/13, effective 7/17/13; ARC 2845C, IAB 12/7/16, effective 1/11/17; ARC 5010C, IAB 3/25/20, effective 4/29/20; ARC 5795C, IAB 7/28/21, effective 6/30/21; ARC 6131C, IAB 1/12/22, effective 2/16/22]

645—31.6(154D) Educational qualifications for mental health counselors. The applicant must complete three semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in 31.6(2); no course may be used to fulfill more than one content area. The applicant must present proof of completion of the following educational requirements for licensure as a mental health counselor:

31.6(1) Accredited program. Applicants must present with the application an official transcript verifying completion of a master’s degree of 60 semester hours (or equivalent quarter hours) or a doctoral degree in counseling with emphasis in mental health counseling from a mental health counseling program accredited by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2012, must present with the application an official transcript verifying completion of a master’s degree of 45 semester hours or the equivalent; or

31.6(2) Content-equivalent program. Applicants must present an official transcript verifying completion of a master’s degree or a doctoral degree from a college or university accredited by an agency recognized by the United States Department of Education which is content-equivalent to a master’s degree in counseling with emphasis in mental health counseling. Graduates from non-CACREP accredited mental health counseling programs shall provide an equivalency evaluation of their educational credentials by the Center for Credentialing and Education, Inc. (CCE), website cce-global.org. The professional curriculum must be equivalent to that stated in these rules. Applicants shall bear the expense of the curriculum evaluation.

a. The degree of an applicant who entered a program of study prior to July 1, 2012, will be considered “content-equivalent” if the degree includes 45 semester hours (or equivalent quarter hours) and successful completion of graduate-level coursework in each of the areas in subparagraphs (1) to (12). If the applicant has taught a graduate-level course in any of the areas in subparagraphs (1) to (12) at a college or university accredited by an agency recognized by the United States Department of Education, that course may be credited toward the coursework requirement.

(1) Counseling theories. Studies that provide an understanding of counseling theories, utilize personal and environmental data in the mental health counseling process, and investigate procedures that are appropriate to various counseling theories and specific settings.

(2) Supervised counseling practicum. A graduate-level clinical supervised counseling practicum in a mental health setting in which students must complete supervised practicum experiences that total a minimum of 100 clock hours over a minimum ten-week academic term. The practicum provides for the development of counseling skills under supervision. The student’s practicum includes all of the following:

1. At least 40 hours of direct service with actual clients that contributes to the development of counseling skills;

2. Weekly interaction with an average of 1 hour per week of individual or triadic supervision throughout the practicum by a program faculty member, a student supervisor, or a site supervisor who is working in biweekly consultation with a program faculty member in accordance with the supervision contract;

3. An average of 1½ hours per week of group supervision that is provided on a regular schedule throughout the practicum by a program faculty member or a student supervisor; and

4. Evaluation of the student's counseling performance throughout the practicum, including documentation of a formal evaluation after the student completes the practicum.

(3) Human growth and development. Studies that provide an understanding of the nature and needs of individuals at all developmental levels. Studies in this area include, but are not limited to, the following:

1. Theories of human development across the life span;

2. Major theories of personality development; and

3. Human behavior, including an understanding of developmental crises, disability, psychopathology, and cultural factors as they affect both normal and abnormal behavior.

(4) Social and cultural foundations. Studies that provide an understanding of issues and trends in a multicultural and diverse society. Studies in this area include, but are not limited to, the following:

1. Multicultural and pluralistic trends, including characteristics and concerns of diverse groups;

2. Attitudes and behavior based on factors such as age, race, religious preference, physical disability, sexual orientation, ethnicity and culture, gender, socioeconomic status, and intellectual ability; and

3. Individual and group interventions with diverse populations.

(5) Helping relationships. Studies that provide an understanding of counseling and consultation processes. Studies in this area include, but are not limited to, the following:

1. Helping skills and counseling and consultation theories, including coverage of relevant research and factors considered in applications;

2. Counselor or consultant characteristics and behaviors that influence helping processes, including gender and ethnicity differences, verbal and nonverbal behaviors and personal characteristics, orientations, and skills; and

3. Client or consultee characteristics and behaviors that influence helping processes, including gender and ethnicity differences, verbal and nonverbal behaviors and personal characteristics, traits, capabilities, life circumstances, and developmental levels.

(6) Groups. Studies that provide an understanding of group development, dynamics, counseling theories, and group counseling methods and skills. Studies in this area include, but are not limited to, the following:

1. Principles of group dynamics, including group process components, developmental stage theories, and group members' roles and behaviors;

2. Group leadership styles and approaches, including characteristics of various types of group leaders and leadership styles;

3. Theories of group counseling, including commonalities, distinguishing characteristics, and pertinent research and literature; and

4. Group counseling methods, including group counselor orientations and behaviors, ethical considerations, appropriate selection criteria and methods, and methods of evaluation of effectiveness.

(7) Career and lifestyle development. Studies that provide an understanding of career development and the interrelationships among work, family, and other life factors. Studies in this area include, but are not limited to, the following:

1. Career development theories and decision-making models;

2. Career, avocational, educational and labor market sources, print media, computer-assisted career guidance, and computer-based career information;

3. Career development program planning;

4. Interrelationships among work, family, and other life factors such as multicultural and gender issues, as related to career development;

5. Career and educational placement, follow-up and evaluation; and
6. Assessment instruments relevant to career planning and decision making.
- (8) Diagnosis and assessment treatment procedures. Studies that provide an understanding of individual and group approaches to assessment and evaluation. Studies in this area include, but are not limited to, the following:
 1. Theoretical and historical bases for assessment techniques and methods of interpretation of appraisal data and information;
 2. Types of educational and psychological appraisal as appropriate to the helping process;
 3. Validity, including evidence for establishing content, construct, and empirical validity;
 4. Reliability, including methods of establishing stability and internal and equivalence reliability;
 5. Major appraisal methods, including environmental assessment, performance assessment, individual and group test and inventory methods, behavioral observations, and computer-managed and computer-assisted methods;
 6. Psychometric statistics, including types of test scores, measures of central tendency, indices of variability, standard errors and correlations; and
 7. Gender, ethnicity, language, disability, and cultural factors related to the assessment and evaluation of individuals and groups.
- (9) Research and program evaluation. Studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research. Studies in this area include, but are not limited to, the following:
 1. Basic types of research methods, including qualitative, quantitative-descriptive, and quantitative-descriptive-experimental designs;
 2. Basic statistics, including both univariate and bivariate hypothesis testing;
 3. Uses of computers for data management and analyses; and
 4. Ethical and legal considerations in research.
- (10) Professional orientation. Studies that provide an understanding of all aspects of professional functioning, including history, roles, organizational structures, ethics, standards, and credentialing. Studies in this area include, but are not limited to, the following:
 1. History of the helping professions, including significant factors and events;
 2. Professional roles and functions, including similarities with and differences from other types of professionals;
 3. Professional organizations (primarily ACA or AMHCA, their divisions, and their branches), including membership benefits, activities, services to members, and current emphases;
 4. Ethical standards of the ACA or AMHCA and the evolution of those standards, legal issues, and applications to various professional activities (e.g., appraisal and group work);
 5. Professional preparation standards and their evolution and current applications; and
 6. Professional credentialing, including certification, licensure, and accreditation practices and standards, and the effects of public policy on these issues.
- (11) Supervised counseling internship that provides an opportunity for the trainee to perform under supervision a variety of activities that a regularly employed staff member in a setting would be expected to perform. A regularly employed staff member is defined as a person occupying the professional role to which the trainee is aspiring. The internship follows a supervised practicum experience. A three-semester-hour internship includes the following:
 1. A minimum of 120 hours of direct service with clientele appropriate to the program of study;
 2. A minimum of 1 hour per week of individual supervision, throughout the internship, usually performed by the on-site supervisor; and
 3. A minimum of 1½ hours per week of group supervision, throughout the internship, usually performed by a program faculty member supervisor.
- (12) Psychopathology. Studies that provide an understanding of the description, classification and diagnosis of behavior disorders and dysfunction. Studies in this area include, but are not limited to, the following:

1. Study of cognitive, behavioral, physiological and interpersonal mechanisms for adapting to change and to stressors;
2. Role of genetic, physiological, cognitive, environmental and interpersonal factors and their interactions on development of the form, severity, course and persistence of the various types of disorders and dysfunction;
3. Research methods and findings pertinent to the description, classification, diagnosis, origin, and course of disorders and dysfunction;
4. Theoretical perspectives relevant to the origin, development, and course and outcome for the forms of behavior disorders and dysfunction; and
5. Methods of intervention or prevention used to minimize and modify maladaptive behaviors, disruptive and distressful cognition, or compromised interpersonal functioning associated with various forms of maladaptation.

b. The degree of an applicant who entered a program of study on or after July 1, 2012, will be considered “content-equivalent” if the degree includes 60 semester hours (or equivalent quarter hours) and successful completion of graduate-level coursework in each of the areas in subparagraphs (1) to (12). If the applicant has taught a graduate-level course in any of the areas in subparagraphs (1) to (12) at a college or university accredited by an agency recognized by the United States Department of Education, that course may be credited toward the coursework requirement.

(1) Professional orientation and ethical practice. Studies that provide an understanding of all of the following aspects of professional functioning:

1. History and philosophy of the counseling profession, including mental health counseling;
2. Professional roles, functions, and relationships of the mental health counselor with other human services providers, including strategies for interagency/interorganization collaboration and communication;
3. Counselors’ roles and responsibilities as members of an interdisciplinary emergency management response team during a local, regional, or national crisis, disaster or other trauma-causing event;
4. Self-care strategies appropriate to the counselor role;
5. Counseling supervision models, practices, and processes;
6. Professional organizations (primarily ACA or AMHCA, and their divisions, branches, and affiliates), including membership benefits, activities, services to members, and current emphases;
7. Professional credentialing, including certification, licensure, and accreditation practices and standards, and the effects of public policy on these issues;
8. The role and process of the professional mental health counselor advocating on behalf of the profession;
9. Advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients; and
10. Ethical standards of ACA or AMHCA and related entities, and applications of ethical and legal considerations in professional counseling.

(2) Social and cultural diversity. Studies that provide an understanding of the cultural context of relationships, issues, and trends in a multicultural and diverse society including all of the following:

1. Multicultural and pluralistic trends, including characteristics and concerns within and among diverse groups nationally and internationally;
2. Attitudes, beliefs, understandings, and acculturative experiences, including specific experiential learning activities designed to foster students’ understanding of self and culturally diverse clients;
3. Theories of multicultural counseling, identity development, and social justice;
4. Individual, couple, family, group, and community strategies for working with and advocating for diverse populations, including multicultural competencies;
5. Counselors’ roles in developing cultural self-awareness, promoting cultural social justice, advocacy, and conflict resolution and other culturally supported behaviors that promote optimal wellness and growth of the human spirit, mind or body; and

6. Counselors' roles in eliminating biases, prejudices, and processes of intentional and unintentional oppression and discrimination.

(3) Human growth and development. Studies that provide an understanding of the nature and needs of persons at all developmental levels and in multicultural contexts, including all of the following:

1. Theories of individual and family development and transitions across the life span;
2. Theories of learning and personality development including current understandings about neurobiological behavior;
3. Effects of crises, disasters, and other trauma-causing events on persons of all ages;
4. Theories and models of individual, cultural, couple, family, and community resilience;
5. A general framework for understanding exceptional abilities and strategies for differentiated interventions;
6. Human behavior, including an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior;
7. Theories and etiology of addictions and addictive behaviors, including strategies for prevention, intervention, and treatment; and
8. Strategies for facilitating optimum development over the life span.

(4) Career development. Studies that provide an understanding of career development and related life factors, including all of the following:

1. Career development theories and decision-making models;
2. Career, avocational, educational, occupational and labor market information resources and career information systems;
3. Career development program planning, organization, implementation, administration, and evaluation;
4. Interrelationships among and between work, family, and other life roles and factors including the role of multicultural issues in career development;
5. Career and educational planning, placement, follow-up, and evaluation;
6. Assessment instruments and techniques relevant to career planning and decision making; and
7. Career counseling processes, techniques, and resources, including those applicable to specific populations.

(5) Helping relationships. Studies that provide an understanding of counseling processes in a multicultural society, including all of the following:

1. An orientation to wellness and prevention as desired counseling goals;
2. Counselor characteristics and behaviors that influence helping processes;
3. An understanding of essential interviewing and counseling skills;
4. Counseling theories that provide the student with a model(s) to conceptualize client presentation and select appropriate counseling interventions. Students shall be exposed to models of counseling that are consistent with current professional research and practice in the field so that they can begin to develop a personal model of counseling;
5. A systems perspective that provides an understanding of family and other systems theories and major models of family and related interventions;
6. A general framework for understanding and practicing consultation; and
7. Crisis intervention and suicide prevention models, including the use of psychological first-aid strategies.

(6) Group work. Studies that provide both theoretical and experiential understanding of group purpose, development, dynamics, theories, methods, skills, and other group approaches in a multicultural society, including all of the following:

1. Principles of group dynamics, including group process components, developmental stage theories, group members' roles and behaviors, and therapeutic factors of group work;
2. Group leadership or facilitation styles and approaches, including characteristics of various types of group leaders and leadership styles;

3. Theories of group counseling, including commonalities, distinguishing characteristics, and pertinent research and literature;

4. Group counseling methods, including group counselor orientations and behaviors, appropriate selection criteria and methods, and methods of evaluation of effectiveness; and

5. Experiences in which students participate as group members in a small group activity, approved by the program, for a minimum of 10 clock hours over the course of one academic term.

(7) Assessment. Studies that provide an understanding of individual and group approaches to assessment and evaluation in a multicultural society, including the following:

1. Historical perspectives concerning the nature and meaning of assessment;

2. Basic concepts of standardized and nonstandardized testing and other assessment techniques including norm-referenced and criterion-referenced assessment, environmental assessment, performance assessment, individual and group test and inventory methods, and behavioral observations;

3. Statistical concepts, including scales of measurement, measures of central tendency, indices of variability, shapes and types of distributions, and correlations;

4. Reliability (i.e., theory of measurement error, models of reliability, and the use of reliability information);

5. Validity (i.e., evidence of validity, types of validity, and the relationship between reliability and validity);

6. Social and cultural factors related to the assessment and evaluation of individuals, groups, and specific populations;

7. Ethical strategies for selecting, administering, and interpreting assessment and evaluation instruments and techniques in counseling; and

8. An understanding of general principles and methods of case conceptualization, assessment, or diagnoses of mental and emotional status.

(8) Research and program evaluation. Studies that provide an understanding of research methods, statistical analysis, needs assessment, and program evaluation, including all of the following:

1. The importance of research in advancing the counseling profession;

2. Research methods such as qualitative, quantitative, single-case designs, action research, and outcome-based research;

3. Statistical methods used in conducting research and program evaluation;

4. Principles, models, and applications of needs assessment, program evaluation, and use of findings to effect program modifications;

5. Use of research to inform evidence-based practice; and

6. Ethical and culturally relevant strategies for interpreting and reporting the results of research and program evaluation studies.

(9) Diagnosis and treatment planning. Studies that provide an understanding of individual and group approaches to assessment and evaluation in a multicultural society. Studies in this area include, but are not limited to, the following:

1. The principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual;

2. The established diagnostic criteria for mental or emotional disorders that describe treatment modalities and placement criteria within the continuum of care;

3. The impact of co-occurring substance use disorders on medical and psychological disorders;

4. The relevance and potential biases of commonly used diagnostic tools as related to multicultural populations;

5. The appropriate use of diagnostic tools, including the current edition of the Diagnostic and Statistical Manual, to describe the symptoms and clinical presentation of clients with mental or emotional impairments;

6. The ability to conceptualize accurate multi-axial diagnoses of disorders presented by clients and discuss the differential diagnosis with collaborating professionals; and

7. The ability to differentiate between diagnosis and developmentally appropriate reactions during crises, disasters, and other trauma-causing events.

(10) Psychopathology. Studies that provide an understanding of emotional and mental disorders experienced by persons of all ages, characteristics of disorders, and common nosologies of emotional and mental disorders utilized within the U.S. health care system for diagnosis and treatment planning. Studies in this area include, but are not limited to, the following:

1. Study of cognitive, behavioral, physiological and interpersonal mechanisms for adapting to change and to stressors;
2. Role of genetic, physiological, cognitive, environmental and interpersonal factors and their interactions on development of the form, severity, course and persistence of the various types of disorders and dysfunction;
3. Research methods and findings pertinent to the description, classification, diagnosis, origin, and course of disorders and dysfunction;
4. Theoretical perspectives relevant to the origin, development, and course and outcome for the forms of behavior disorders and dysfunction; and
5. Methods of intervention or prevention used to minimize and modify maladaptive behaviors, disruptive and distressful cognition, or compromised interpersonal functioning associated with various forms of maladaptation.

(11) Practicum. A graduate-level clinical supervised counseling practicum in a mental health setting in which students must complete supervised practicum experiences that total a minimum of 100 clock hours over a minimum ten-week academic term. The practicum provides for the development of counseling skills under supervision. The student's practicum includes all of the following:

1. At least 40 hours of direct service with actual clients that contributes to the development of counseling skills;
2. Weekly interaction with an average of 1 hour per week of individual or triadic supervision throughout the practicum by a program faculty member, a student supervisor, or a site supervisor who is working in biweekly consultation with a program faculty member in accordance with the supervision contract;
3. An average of 1½ hours per week of group supervision that is provided on a regular schedule throughout the practicum by a program faculty member or a student supervisor; and
4. Evaluation of the student's counseling performance throughout the practicum including documentation of a formal evaluation after the student completes the practicum.

(12) Internship. A graduate-level clinical supervised counseling internship in a mental health setting that requires students to complete a supervised internship of 600 clock hours that is begun after the student's successful completion of the practicum. The internship is intended to reflect the comprehensive work experience of a professional counselor appropriate to clinical mental health counseling. The internship provides an opportunity for the student to perform, under supervision, a variety of counseling activities that a mental health counselor is expected to perform. The student's internship includes all of the following:

1. At least 240 hours of direct service with clientele, including experience leading groups;
2. Weekly interaction that averages 1 hour per week of individual supervision or triadic supervision throughout the internship, usually performed by the on-site supervisor;
3. An average of 1½ hours per week of group supervision, provided on a regular schedule throughout the internship, usually performed by a program faculty member supervisor;
4. The opportunity for the student to become familiar with a variety of professional activities in addition to direct service (e.g., record keeping, supervision, information and referral, in-service and staff meetings);
5. The opportunity for the student to develop program-appropriate audio/video recordings for use in supervision or to receive live supervision of the student's interactions with clients;
6. The opportunity for the student to gain supervised experience in the use of a variety of professional resources such as assessment instruments, technologies, print and nonprint media, professional literature, and research; and

7. Evaluation of the student's counseling performance throughout the internship including documentation of a formal evaluation by a program faculty member in consultation with the site supervisor after the student completes the internship.

31.6(3) *Foreign-trained marital and family therapists or mental health counselors.* Foreign-trained marital and family therapists or mental health counselors shall:

a. Provide an equivalency evaluation of their educational credentials by the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone (310)258-9451; website www.ierf.org or email at info@ierf.org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a mental health counselor program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.
[ARC 7673B, IAB 4/8/09, effective 4/30/09; ARC 9547B, IAB 6/1/11, effective 7/6/11; ARC 1758C, IAB 12/10/14, effective 1/14/15; ARC 2845C, IAB 12/7/16, effective 1/11/17; ARC 5010C, IAB 3/25/20, effective 4/29/20]

645—31.7(154D) Clinical experience requirements for mental health counselors.

31.7(1) The supervised clinical experience shall:

a. Be a minimum of two years of postgraduate supervised professional work experience in mental health counseling.

b. Be completed following completion of the practicum, internship, and all graduate coursework, with the exception of the thesis.

c. Include successful completion of at least 3,000 hours of mental health counseling that shall include at least 1,500 hours of direct client contact and 200 hours of clinical supervision. Applicants who entered a program of study prior to July 1, 2010, shall include successful completion of 200 hours of clinical supervision concurrent with 1,000 hours of mental health counseling conducted in person with couples, families and individuals.

d. Be completed in person or by electronic means.

(1) Up to 50 percent of all supervision may be completed by telephone.

(2) Supervision by electronic means is acceptable if the system utilized is a confidential, interactive, secure, real-time system that provides for visual and audio interaction between the licensee and the supervisor.

e. Include in the 200 hours of clinical supervision at least 100 hours of individual supervision.

f. Follow and maintain a plan throughout the supervisory period established by the supervisor and the licensee. Such a plan must be kept by the licensee for a period of five years following receipt of the permanent license and must be submitted to the board upon request. The plan for supervision shall include:

(1) The name, license number, date of licensure, address, telephone number, and email address (when available) of the supervisor;

(2) The name, license number, address, telephone number, and email address (when available) of supervisee;

(3) Employment setting in which experience will occur;

(4) The nature, duration and frequency of supervision;

(5) The number of hours of supervision per month;

(6) The supervisor/licensees type (individual/group) and mode (face-to-face/electronic) of supervision;

(7) The methodology for secure transmission of case information;

(8) The beginning date of supervised professional practice and estimated date of completion;

(9) The goals and objectives for the supervised professional practice; and

(10) The signatures of the supervisor and licensee, and the dates of signatures.

g. Have only supervised clinical contact credited for this requirement.

31.7(2) To meet the requirements of the supervised clinical experience:

- a. The supervisee must:
 - (1) Meet with the supervisor a minimum of four hours per month;
 - (2) Offer documentation of supervised hours signed by the supervisor;
 - (3) Compute part-time employment on a prorated basis for the supervised professional experience;
 - (4) Have the background, training, and experience that are appropriate to the functions performed;
 - (5) Have supervision that is clearly distinguishable from personal counseling and is contracted in order to serve professional/vocational goals;
 - (6) Have individual supervision that shall be in person with no more than one supervisor to two supervisees;
 - (7) Have group supervision that may be completed with up to ten supervisees and a supervisor; and
 - (8) Not participate in the following activities which are deemed unacceptable for clinical supervision:
 1. Peer supervision, i.e., supervision by a person of equivalent, but not superior, qualifications, status, and experience.
 2. Supervision, by current or former family members, or any other person, in which the nature of the personal relationship prevents, or makes difficult, the establishment of a professional relationship.
 3. Administrative supervision, e.g., clinical practice performed under administrative rather than clinical supervision of an institutional director or executive.
 4. A primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar.
 5. Consultation, staff development, or orientation to a field or program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.
- b. Effective October 1, 2020, the supervisor shall:
 - (1) Be an Iowa-licensed mental health counselor in Iowa with at least three years of clinical experience following licensure or shall be approved by the National Board for Certified Counselors (NBCC) as a supervisor; or
 - (2) Be an Iowa-licensed marital and family therapist with a minimum of three years of clinical experience following licensure or shall be a supervisor or supervisor candidate approved by the American Association for Marriage and Family Therapy Commission on Supervision; or
 - (3) Be an Iowa-licensed social worker independent level with at least three years of clinical experience following licensure at the independent level; and
 - (4) Have completed at least a six-hour continuing education course in counseling supervision or one master's level course in counseling supervision; and
 - (5) Meet a minimum of four hours per month with the supervisee; and
 - (6) Provide training that is appropriate to the functions to be performed; and
 - (7) Ensure that therapeutic work is completed under the professional supervision of a supervisor; and
 - (8) Not supervise any mental health counselor or permit the supervisee to engage in any therapy that the supervisor cannot perform competently.
- c. Exceptions to paragraph 31.7(2)“b” shall be made on an individual basis. Requests for alternative supervisors must be submitted in writing, and the board must approve the supervisor prior to commencement of the supervision.

31.7(3) Rescinded IAB 7/6/05, effective 8/10/05.

31.7(4) An applicant who has obtained Certified Clinical Mental Health Counselor status with the National Board for Certified Counselors (NBCC) is considered to have met the clinical experience requirements of rule 645—31.7(154D). The applicant shall ensure that proof of current certified clinical mental health counselor status be sent directly from NBCC to the board.

[ARC 7673B, IAB 4/8/09, effective 4/30/09; ARC 8152B, IAB 9/23/09, effective 10/28/09; ARC 9547B, IAB 6/1/11, effective 7/6/11; ARC 0777C, IAB 6/12/13, effective 7/17/13; ARC 2845C, IAB 12/7/16, effective 1/11/17; ARC 5010C, IAB 3/25/20, effective 4/29/20; ARC 5795C, IAB 7/28/21, effective 6/30/21; ARC 6131C, IAB 1/12/22, effective 2/16/22]

645—31.8(154D) Licensure by endorsement for mental health counselors and marital and family therapists. An applicant who has been a licensed marriage and family therapist or mental health

counselor under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.

31.8(1) The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

- a. Submits to the board a completed application;
- b. Pays the licensure fee;
- c. Shows evidence of licensure requirements that are similar to those required in Iowa;
- d. Provides official transcripts sent directly from the school to the board verifying completion of a master's degree of 45 hours or equivalent if the applicant entered a program of study prior to July 1, 2012, or verifying completion of a master's degree of 60 hours or equivalent if the applicant entered a program of study on or after July 1, 2012, or the appropriate doctoral degree. Graduates from a non-CACREP-accredited mental health counselor program or a non-COAMFTE-accredited marital and family therapy program shall provide an equivalency evaluation of their educational credentials by the Center for Credentialing and Education, Inc. (CCE), website cce-global.org. The professional curriculum must be equivalent to that stated in these rules. Applicants shall bear the expense of the curriculum evaluation;
- e. Supplies satisfactory evidence of the candidate's qualifications in writing on the prescribed forms by the candidate's supervisors. If verification of clinical experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision;
- f. Provides verification(s) of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license; and

g. Has the examination score sent directly from the testing service to the board.

31.8(2) In lieu of meeting the requirements of paragraphs 31.8(1) "d" and "e," applicants who meet the qualifications below may instead submit documentation demonstrating how each of the qualifications below is satisfied:

- a. The applicant has been licensed as a mental health counselor or a marital and family therapist in another state for at least five years at the independent level (independent level means the highest level of licensure in the field offered by the particular state);
- b. The applicant has been practicing under the independent license in a clinical mental health or marital and family therapy counseling setting for at least five years;
- c. The applicant possesses a master's degree or higher in mental health counseling or marital and family therapy or an equivalent counseling-related field; and
- d. The applicant does not have any past or pending disciplinary action from any state licensing boards related to any mental health counseling or marital and family therapy license currently or previously held by the applicant.

31.8(3) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

[ARC 7673B, IAB 4/8/09, effective 4/30/09; ARC 0777C, IAB 6/12/13, effective 7/17/13; ARC 1758C, IAB 12/10/14, effective 1/14/15; ARC 2845C, IAB 12/7/16, effective 1/11/17; ARC 4390C, IAB 4/10/19, effective 3/22/19; ARC 4557C, IAB 7/17/19, effective 8/21/19; ARC 5767C, IAB 7/14/21, effective 8/18/21]

645—31.9(147) Licensure of behavior analysts and assistant behavior analysts.

31.9(1) The applicant shall complete an application.

31.9(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

31.9(3) Each application shall be accompanied by the appropriate fees payable to the board of behavioral science. The fees are nonrefundable.

31.9(4) For licensure as a behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified behavior analyst or board-certified behavior analyst-doctoral. For licensure as an assistant behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified assistant behavior analyst.

[ARC 4390C, IAB 4/10/19, effective 3/22/19; ARC 4557C, IAB 7/17/19, effective 8/21/19; ARC 5767C, IAB 7/14/21, effective 8/18/21]

645—31.10(147) License renewal for mental health counselors and marriage and family therapists.

31.10(1) The biennial license renewal period for a license to practice marital and family therapy or mental health counseling shall begin on October 1 of an even-numbered year and end on September 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

31.10(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

31.10(3) A licensee seeking renewal shall:

- a. Meet the continuing education requirements of rule 645—32.2(272C). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b. Submit the completed renewal application and renewal fee before the license expiration date.
- c. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

31.10(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph "d."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph "d."

c. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" and "b," including program date(s), content, duration, and proof of participation.

d. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

- (1) Is engaged in active duty in the military service of this state or the United States.
- (2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

e. The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "d."

31.10(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

31.10(6) A person licensed to practice as a marital and family therapist or mental health counselor shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

31.10(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.3(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

31.10(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice mental health counseling or marital and family therapy in Iowa until the license is reactivated. A licensee who practices mental health counseling or marital and family therapy in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 9547B, IAB 6/1/11, effective 7/6/11; ARC 4390C, IAB 4/10/19, effective 3/22/19; ARC 4557C, IAB 7/17/19, effective 8/21/19; ARC 5010C, IAB 3/25/20, effective 4/29/20]

645—31.11(272C) Initial licensing, reactivation, and license renewal for behavior analysts and assistant behavior analysts.

31.11(1) An initial license for a behavior analyst or assistant behavior analyst shall be issued with the same expiration date as the applicant's current certification issued by BACB.

31.11(2) The biennial license renewal period for a behavior analyst or assistant behavior analyst shall run concurrent with the licensee's BACB certification. Each license renewed shall be given the expiration date that is on the licensee's current BACB certification. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

31.11(3) A licensee seeking renewal shall:

- a. Meet the continuing education requirements required by BACB to renew a certification.
- b. Maintain current certification as a board-certified behavior analyst, board-certified behavior analyst-doctoral, or board-certified assistant behavior analyst issued by BACB.
- c. Submit the completed renewal application and renewal fee before the license expiration date.

31.11(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

31.11(5) A person licensed as a behavior analyst or assistant behavior analyst shall keep the person's license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

31.11(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.3(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

31.11(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not engage in the practice of applied behavior analysis for which a license is required in Iowa until the license is reactivated. A licensee who practices applied behavior analysis in a capacity that requires licensure in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

31.11(8) Reactivation. To apply for reactivation of an inactive license, a licensee shall submit a completed renewal application and proof of current certification and shall be assessed a reactivation fee as specified in 645—subrule 5.3(6).

[ARC 4390C, IAB 4/10/19, effective 3/22/19; ARC 4557C, IAB 7/17/19, effective 8/21/19; ARC 5767C, IAB 7/14/21, effective 8/18/21]

645—31.12(147) Licensee record keeping.

31.12(1) A licensee shall maintain sufficient, timely, and accurate documentation in client records.

31.12(2) For purposes of this rule, “client” means the individual, couple, family, or group to whom a licensee provides direct clinical services.

31.12(3) A licensee’s records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

31.12(4) Clinical services. A licensee who provides clinical services in any employment setting, including private practice, shall:

a. Store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee’s employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all client records for a minimum of seven years after the date of the client’s discharge or death, or, in the case of a minor, for three years after the client reaches the age of majority under state law or seven years after the date of the client’s discharge or death, whichever is longer.

b. Maintain timely records that include subjective and objective data, an assessment, a treatment plan, and any revisions to the assessment or plan made during the course of treatment.

c. Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client’s access to the client’s records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client’s access to the client’s records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client’s request for access and the licensee’s rationale for withholding some or all of a record shall be documented in the client’s records.

d. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

31.12(5) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

31.12(6) Correction of records.

a. Hard-copy records. Original notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the original record, it must be crossed out with a single, nondeleting line and be initialed and dated by the licensee.

b. Electronic records. If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

31.12(7) Confidentiality and transfer of records. Marital and family therapists or mental health counselors shall preserve the confidentiality of client records in accordance with their respective rules of conduct and with federal and state law. Upon receipt of a written release or authorization signed by the client, the licensee shall furnish such therapy records, or copies of the records, as will be beneficial for the future treatment of that client. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

31.12(8) Retirement, death or discontinuance of practice.

a. If a licensee is retiring or discontinuing practice and is the owner of a practice, the licensee shall notify in writing all active clients and, upon knowledge and agreement of the clients, shall make reasonable arrangements with those clients to transfer client records, or copies of those records, to the succeeding licensee.

b. Upon a licensee’s death:

(1) The licensee’s employer or representative must ensure that all client records are transferred to another licensee or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The licensee's employer or representative shall notify each active client that the client's records will be transferred to another licensee or entity that will retain custody of the records and that, at the client's written request, the records will be sent to the licensee or entity of the client's choice.

31.12(9) Nothing stated in this rule shall prohibit a licensee from conveying or transferring the licensee's client records to another licensed individual who is assuming a practice, provided that written notice is furnished to all clients.

645—31.13 to 31.15 Reserved.

645—31.16(17A,147,272C) License reactivation for mental health counselors and marital and family therapists. To apply for reactivation of an inactive license, a licensee shall:

31.16(1) Submit a reactivation application on a form provided by the board.

31.16(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

31.16(3) Provide verification of current competence to practice mental health counseling or marital and family therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education obtained within the two years immediately preceding the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education obtained within the two years immediately preceding the application for reactivation.

[ARC 0777C, IAB 6/12/13, effective 7/17/13; ARC 4390C, IAB 4/10/19, effective 3/22/19; ARC 4557C, IAB 7/17/19, effective 8/21/19]

645—31.17(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—31.16(17A,147,272C) or subrule 31.11(8) prior to practicing mental health counseling, marital and family therapy, or applied behavior analysis in this state.

[ARC 4390C, IAB 4/10/19, effective 3/22/19; ARC 4557C, IAB 7/17/19, effective 8/21/19]

645—31.18(154D) Marital and family therapy and mental health counselor services subject to regulation. Marital and family therapy and mental health counselor services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the marital and

family therapy and mental health counselor, shall constitute the practice of marital and family therapy and mental health counseling and shall be subject to regulation in Iowa.

645—31.19(154D) Temporary licensees. A temporary licensee shall engage only in the practice of marital and family therapy or mental health counseling as part of an agency or group practice with oversight over the temporary licensee. The agency or group practice shall have at least one independently licensed mental health provider. A temporary licensee shall not practice as a solo practitioner or solely with other temporary licensees.

[ARC 5010C, IAB 3/25/20, effective 4/29/20]

These rules are intended to implement Iowa Code chapters 17A, 147, 154D and 272C.

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[◇] Two or more ARCs

¹ February 18, 2009, effective date of amendments to 645—31.4(154D) to 645—31.8(154D), **ARC 7476B**, Items 5 to 9, delayed 70 days by the Administrative Rules Review Committee at its meeting held February 6, 2009.

SOCIAL WORKERS

CHAPTER 280	LICENSURE OF SOCIAL WORKERS
CHAPTER 281	CONTINUING EDUCATION FOR SOCIAL WORKERS
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CHAPTER 280
LICENSURE OF SOCIAL WORKERS

645—280.1(154C) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“ASWB” means the Association of Social Work Boards.

“Board” means the board of social work.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“LBSW” means licensed bachelor social worker.

“Licensee” means any person licensed to practice as a social worker in the state of Iowa.

“License expiration date” means December 31 of even-numbered years.

“Licensure by endorsement” means the issuance of an Iowa license to practice social work to an applicant who is or has been licensed in another state.

“LISW” means licensed independent social worker.

“LMSW” means licensed master social worker.

“Mandatory training” means training on identifying and reporting child abuse or dependent adult abuse required of social workers who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—280.14(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice social work to an applicant who is currently licensed in another state and that state’s board of examiners has a mutual written agreement with the Iowa board of social work to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

[ARC 8371B, IAB 12/16/09, effective 1/20/10; ARC 3744C, IAB 4/11/18, effective 5/16/18]

645—280.2(154C) Social work services subject to regulation. Social work services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the social worker, shall constitute the practice of social work and shall be subject to regulation in Iowa.

645—280.3(154C) Requirements for licensure. The following criteria shall apply to licensure:

280.3(1) The applicant shall submit a completed licensure application.

280.3(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

280.3(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Social Work. The fees are nonrefundable.

280.3(4) No application shall be considered by the board until official copies of academic transcripts have been received by the board except as provided in 280.4(6).

280.3(5) The applicant shall provide verification of license(s) from every state in which the applicant has been licensed as a social worker, sent directly from the state(s) to the Iowa board of social work office.

280.3(6) The candidate shall take the examination(s) required by the board pursuant to these rules.

280.3(7) An applicant for a license as an independent social worker shall have met the requirements for supervision pursuant to 645—280.6(154C).

280.3(8) Each social worker who seeks to attain licensure as an independent social worker shall have been granted a master's or doctoral degree in social work and practiced at that level.

280.3(9) Notification of licensure shall be sent to the licensee.

280.3(10) Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

280.3(11) Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

280.3(12) In lieu of the requirements in subrules 280.3(4) and 280.3(5), the board will accept the ASWB Social Work Registry verification of academic transcripts and verification of licensure in other states.

[ARC 8371B, IAB 12/16/09, effective 1/20/10; ARC 3744C, IAB 4/11/18, effective 5/16/18; ARC 5771C, IAB 7/14/21, effective 8/18/21]

645—280.4(154C) Written examination.

280.4(1) The applicant is required to take and pass the ASWB examination at the appropriate level as follows:

- a. Bachelor level social worker—the basic level examination.
- b. Master level social worker—the intermediate level examination.
- c. Independent level social worker—the clinical level examination.

280.4(2) The electronic examination shall be scheduled with ASWB.

280.4(3) Application for any required examination will be denied or deferred by the board if the applicant lacks the required education or practice experience.

280.4(4) The applicant and the board shall be notified of the ASWB examination results, and the applicant may receive the results at the time of the examination. The board will accept only official results from the ASWB examination service that are sent directly from the examination service to the board.

280.4(5) The ASWB passing score will be utilized as the Iowa passing score.

280.4(6) An applicant may sit for the examination if the applicant meets the requirements stated in 645—280.3(154C). Upon written request of the applicant, the board may authorize a student to sit for the examination prior to the receipt of the official transcript if the student is in the last semester of an approved master of social work program. The student shall submit an application for licensure at the master's level and the fee, and, in lieu of a transcript, the student shall request that the school submit a letter directly to the board office. The letter shall state that the student is currently enrolled in a master of social work program and the student's expected date of graduation. Upon completion of degree requirements, the applicant shall have the transcript showing the date of the degree sent directly from the school to the board office at the Board of Social Work, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

280.4(7) In lieu of the requirements in subrule 280.4(4), the board will accept the ASWB Social Work Registry verification of the ASWB examination results.

[ARC 8371B, IAB 12/16/09, effective 1/20/10]

645—280.5(154C) Educational qualifications.

280.5(1) Bachelor level social worker. An applicant for a license as a bachelor level social worker shall present evidence satisfactory to the board that the applicant possesses a bachelor's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation.

280.5(2) Master level social worker. An applicant for a license as a master level social worker shall present evidence satisfactory to the board that the applicant:

- a.* Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or
- b.* Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.5(3) Independent level social worker. An applicant for a license as an independent level social worker shall present evidence satisfactory to the board that the applicant:

- a.* Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or
- b.* Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.5(4) Foreign-trained social workers shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310)258-9451, website www.ierf.org or email at info@ierf.org; or obtain a certificate of equivalency from the Council on Social Work Education, 1701 Duke Street, Suite 200, Alexandria, Virginia 22314-3457, telephone (703)683-8080, website www.cswe.org. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a social work program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

[ARC 3744C, IAB 4/11/18, effective 5/16/18]

645—280.6(154C) Period of supervised professional practice for LISW. To qualify for licensure at the independent level, an LMSW shall complete a period of supervised professional practice in accordance with the requirements of this rule.

280.6(1) *Minimum requirements.* The period of supervised professional practice shall:

- a.* Not begin prior to licensure at the master's level.
- b.* Have a duration of at least two calendar years.
- c.* Consist of a minimum of 4,000 hours of social work practice at the master's level.
- d.* Include at least 110 hours of direct supervision equitably distributed throughout the period and in compliance with the requirements of subrule 280.6(3).
- e.* Be done pursuant to one or more written supervision plans that comply with the requirements of subrule 280.6(7).

280.6(2) *Content of supervised professional practice.* The supervisor shall ensure that the period of supervised professional practice includes the following:

- a.* Psychosocial assessments, including evaluation of symptoms and behaviors and the effects of the environment on behavior;
- b.* Diagnostic practice using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association;
- c.* Treatment, including the establishment of treatment goals, psychosocial therapy, and differential treatment planning;
- d.* Practice management skills;
- e.* Skills required for continued competence;
- f.* Training on ethical standards and legal and regulatory requirements; and

g. Development of professional identity.

280.6(3) *Direct supervision.* The required 110 hours of direct supervision may be obtained through individual meetings between the supervisor and supervisee or through group supervision meetings consisting of the supervisor and more than one supervisee.

a. Supervision may occur through in-person meetings or through electronic meetings using an interactive real-time system that provides for visual and audio interaction between the supervisor and supervisee.

b. A maximum of 60 hours of direct supervision may be obtained through group supervision meetings. A maximum of six supervisees may participate in any group supervision meeting.

280.6(4) *Supervisor eligibility requirements.*

a. To be eligible to serve as a supervisor for the period of supervised professional practice, a supervisor shall:

(1) Hold an active Iowa license to practice social work at the independent level, an active Iowa license to practice mental health counseling without supervision, or an active Iowa license to practice marital and family therapy without supervision in Iowa. If the supervised professional practice occurs in another state, a supervisor licensed in that state may serve as a supervisor and may provide direct supervision hours if the supervisor holds an equivalent license.

(2) Have at least three years of social work practice at the independent level, which must include a minimum of 4,000 hours of practice.

(3) Complete a six-hour continuing education course pertaining to social work practice supervision or one master's level course in supervision.

b. Any request for a supervisor who does not meet these requirements must be submitted to the board for approval before supervision begins. The board will only approve an otherwise ineligible supervisor if the supervisee demonstrates that eligible supervisors are unavailable or unwilling to provide supervision. Any practice or supervision hours obtained under an ineligible supervisor prior to board approval cannot be counted toward completion of the period of supervised professional practice.

280.6(5) *Supervisor responsibilities.* A supervisor shall provide adequate supervision to all supervisees. Failure to provide adequate supervision may be grounds for disciplinary action. A supervisor shall be responsible for:

- a. Timely submission of the supervision plan;
- b. Providing supervision in accordance with this rule;
- c. Directing the supervisee to obtain written releases of information from patients when legally required for purposes of providing supervision;
- d. Providing periodic evaluations and feedback regarding the supervisee's performance to the supervisee;
- e. Answering questions and assisting supervisees as new or difficult issues arise;
- f. Ensuring the supervisee's caseload is manageable;
- g. Reporting to the board any violations of board rules by supervisees; and
- h. Completing a supervision report.

280.6(6) *Supervisee responsibilities.* A supervisee shall comply with all statutes and rules governing the practice of social work. A supervisee shall be responsible for:

- a. Timely submission of the supervision plan;
- b. Obtaining supervision in accordance with this rule;
- c. Obtaining written releases of information from patients when legally required for purposes of receiving supervision;
- d. Asking the supervisor to provide periodic evaluations and feedback regarding the supervisee's performance;
- e. Asking questions of the supervisor when assistance is needed or when new or difficult issues arise;
- f. Reporting any issues related to caseload, including volume and difficulty, to the supervisor;
- g. Reporting to the board any violations of board rules by the supervisor; and

h. Maintaining a copy of every supervision plan and supervision report until such time as the supervisee is issued a license to practice social work at the independent level.

280.6(7) *Supervision plan.* A current written supervision plan must be maintained throughout the period of supervised professional practice. Each supervisor who provides practice supervision or direct supervision hours shall be named on a supervision plan.

a. A written supervision plan must be established and submitted to the board before the period of supervised professional practice begins. The board will perform an initial review of each supervision plan and notify the supervisee of approval or denial of the plan within 45 days of receipt. A supervisee may begin supervised professional practice after submission of the supervision plan but cannot count any practice or supervision hours obtained pursuant to a supervision plan that is ultimately denied by the board.

b. If a supervisee is changing supervisors or adding an additional supervisor, a revised supervision plan shall be submitted to the board for approval at the time of the change or addition. A supervisee may continue supervised professional practice after submission of a revised supervision plan but cannot count any practice or supervision hours obtained pursuant to a revised supervision plan that is ultimately denied by the board.

c. The board maintains a supervision plan form that may be utilized to write the supervision plan. A supervision plan shall include:

- (1) The name, license number, date of licensure, address, telephone number, and email address of the supervisor;
- (2) The name, license number, address, telephone number, and email address of the supervisee;
- (3) The name of the agency, institution, or organization providing the period of supervised professional practice;
- (4) The start date and estimated date of completion of the period of supervised professional practice;
- (5) The goals and objectives for the period of supervised professional practice;
- (6) The nature, duration, and frequency of direct supervision, including the number of hours of direct supervision per week, the schedule for in-person and electronic supervision meetings, and the use of group supervision; and
- (7) The signatures of the supervisor and supervisee, and the dates of the signatures.

280.6(8) *Completion of supervised professional practice.*

a. At the conclusion of the period of supervised professional practice, the supervisee shall have any and all supervisors complete a supervision report on the form provided by the board. Each supervision report must be signed and dated by the supervisor and supervisee.

b. The board will review each supervision report for approval of the hours pertaining to the particular report. The board may deny any practice or supervision hours that were not obtained in compliance with this rule. The board may deny any practice or supervision hours if the supervisor indicates that the supervisee did not adhere to the ethical standards and legal and regulatory requirements governing the practice of social work or if the supervisor does not recommend the supervisee for licensure at the independent level.

[ARC 8371B, IAB 12/16/09, effective 1/20/10; ARC 8586B, IAB 3/10/10, effective 4/14/10; ARC 0093C, IAB 4/18/12, effective 5/23/12; ARC 3744C, IAB 4/11/18, effective 5/16/18; ARC 5795C, IAB 7/28/21, effective 6/30/21; ARC 6131C, IAB 1/12/22, effective 2/16/22]

645—280.7(154C) Licensure by endorsement.

280.7(1) An applicant who has been a licensed social worker under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

- a.* Submits to the board a completed application;
- b.* Pays the licensure fee;
- c.* Shows evidence of licensure requirements that are similar to those required in Iowa;
- d.* Provides official copies of the academic transcripts;

e. Provides official copies of the appropriate or higher level examination score sent directly from the ASWB; and

f. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

280.7(2) A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

In lieu of the requirements in paragraphs 280.7(1) "*d*," "*e*," and "*f*," the board will accept the ASWB Social Work Registry verification of academic transcripts, examination scores, and licensure in other states.

[ARC 0093C, IAB 4/18/12, effective 5/23/12; ARC 5771C, IAB 7/14/21, effective 8/18/21]

645—280.8 Reserved.

645—280.9(154C) License renewal.

280.9(1) The biennial license renewal period for a license to practice social work shall begin on January 1 of odd-numbered years and end on December 31 of the next even-numbered year. Every licensee shall renew on a biennial basis. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of the responsibility for renewing the license.

280.9(2) Renewal procedures.

a. A licensee seeking renewal shall:

(1) Meet the continuing education requirements of rule 645—281.2(154C,272C) and the mandatory reporting requirements of subrule 280.9(3). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

(2) Submit the completed renewal application and renewal fee before the license expiration date.

b. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

c. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

d. Persons licensed to practice social work shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

e. Failure to receive the notice of renewal shall not relieve the licensee of the responsibility for submitting the required materials and the renewal fee to the board office 30 days before license expiration.

f. A social worker whose Iowa license is inactive, delinquent, closed, retired, voluntarily surrendered, suspended, or revoked cannot advance to a higher level until the license is again active.

280.9(3) Mandatory reporting of child abuse and dependent adult abuse.

a. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats children in Iowa shall complete an initial two-hour child abuse mandatory reporter training course offered by the department of human services within six months of employment, or prior to the expiration of a current certificate. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certificate.

b. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats adults in Iowa shall complete an initial two-hour dependent adult abuse mandatory reporter training course offered by the department of human services within six months of employment, or prior to the expiration of a current certificate. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certificate.

c. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

- (1) Is engaged in active duty in the military service of this state or the United States.
- (2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including waiver of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 281.

d. The board may select licensees for audit of compliance with the requirements in paragraphs “a” and “b.”

280.9(4) Late renewal. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

280.9(5) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a social worker in Iowa until the license is reactivated. A licensee who practices as a social worker in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

280.9(6) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

[ARC 8371B, IAB 12/16/09, effective 1/20/10; ARC 9934B, IAB 12/28/11, effective 2/1/12; ARC 3744C, IAB 4/11/18, effective 5/16/18; ARC 4981C, IAB 3/11/20, effective 4/15/20; ARC 5771C, IAB 7/14/21, effective 8/18/21]

645—280.10 to 280.13 Reserved.

645—280.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

280.14(1) Submit a reactivation application on a form provided by the board.

280.14(2) Pay the reactivation fee that is due as specified in 645—subrule 5.19(4).

280.14(3) Provide verification of current competence to practice social work by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the verifications in both subparagraphs (1) and (2) below plus the verification in either subparagraphs (3) or (4) below.

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation; and

(3) Verification of passing the ASWB examination within the last five years at the appropriate or higher level as follows:

1. Bachelor level social worker – the bachelor's level examination; or
2. Master level social worker – the master's level examination; or
3. Independent level social worker – the clinical level examination; or

(4) Verification of continued social work practice at the appropriate or higher level in another state for a minimum of two years immediately preceding the application for reactivation.

[ARC 0093C, IAB 4/18/12, effective 5/23/12; ARC 5771C, IAB 7/14/21, effective 8/18/21]

645—280.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—280.14(17A,147,272C) prior to practicing social work in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154C and 272C.

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⁰ Two or more ARCs

¹ Effective date of rules 161.212 to 161.217 delayed 70 days by the Administrative Rules Review Committee.

² Effective date of 280.100(154C) is July 1, 1993.

³ Effective date of **ARC 9102A** delayed 70 days by the Administrative Rules Review Committee at its meeting held July 13, 1999; delay lifted at the meeting held August 3, 1999, effective August 4, 1999.

SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361	LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
CHAPTER 362	CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
CHAPTER 363	DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361

LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—361.1(154E) Definitions. For purposes of these rules, the following definitions shall apply:

“Active interpreter or transliterator services” means the actual time spent personally providing interpreting or transliterating services or providing interpreting or transliterating services through videoconferencing or remotely. When in a team interpreting situation, the time spent monitoring while the team interpreter is actively interpreting shall not be included in the time spent personally providing interpreting or transliterating services.

“Active license” means a license that is current and has not expired.

“Board” means the board of sign language interpreters and transliterators.

“Direct supervision of a temporary license holder” means monitoring of interpreting or transliterating services while personally observing the temporary license holder providing those services, as outlined in paragraphs 361.3(4) “b” and “c.”

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Licensee” means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

“License expiration date” means June 30 of odd-numbered years.

“Licensure by endorsement” means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is or has been licensed in another state.

“Reactivate” or *“reactivation”* means the process as outlined in rule 645—361.9(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of sign language interpreters and transliterators to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Supervisor” means a sign language interpreter or transliterator licensed pursuant to Iowa Code section 154E.3 and subrule 361.2(1) who provides on-site evaluations and advisory sessions with a temporary license holder for the purpose of the professional development of that temporary license holder.

[ARC 2744C, IAB 10/12/16, effective 11/16/16; ARC 6146C, IAB 1/12/22, effective 2/16/22]

645—361.2(154E) Requirements for licensure.

361.2(1) The following criteria shall apply to licensure:

a. The applicant shall complete a board-approved application. Application forms may be obtained from the board’s website (www.idph.iowa.gov/licensure) or directly from the board office. The applicant may complete the application online at ibplicense.iowa.gov.

b. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed until properly completed.

c. The application fee shall be paid prior to issuance of license. The preferred payment method is by debit card, credit card, or check or money order made to the Board of Sign Language Interpreters and Translitterators. The fees are nonrefundable.

d. No application will be considered until official documentation is received to establish that the applicant meets one of the following:

(1) Passes the National Association of the Deaf/Registry of Interpreters for the Deaf (NAD/RID) National Interpreter Certification (NIC) examination after November 30, 2011; or

(2) Passes one of the following examinations administered by the Registry of Interpreters for the Deaf (RID):

1. Oral Transliteration Certificate (OTC); or

2. Certified Deaf Interpreter (CDI); or

(3) Passes the Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above after December 31, 1999; or

(4) Passes the Cued Language Transliterator National Certification Examination (CLTNCE) administered by The National Certifying Body for Cued Language Translitterators; or

(5) Currently holds one of the following NAD/RID certifications awarded through November 30, 2011, by the National Council on Interpreting (NCI):

1. National Interpreter Certification (NIC); or

2. National Interpreter Certification Advanced (NIC Advanced); or

3. National Interpreter Certification Master (NIC Master); or

(6) Currently holds one of the following certifications previously awarded by the RID:

1. Certificate of Interpretation (CI); or

2. Certificate of Transliteration (CT); or

3. Certificate of Interpretation and Certificate of Transliteration (CI and CT); or

4. Interpretation Certificate/Transliteration Certificate (IC/TC); or

5. Comprehensive Skills Certificate (CSC); or

(7) Currently holds one of the following certifications previously awarded by the National Association of the Deaf (NAD):

1. NAD III (Generalist); or

2. NAD IV (Advanced); or

3. NAD V (Master); or

(8) Currently holds an advanced certification awarded by the Board for Evaluation of Interpreters (BEI).

e. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly to the Board of Sign Language Interpreters and Translitterators.

361.2(2) Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal cycle two years later.

361.2(3) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

361.2(4) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

[ARC 7643B, IAB 3/25/09, effective 4/29/09; ARC 0405C, IAB 10/17/12, effective 11/21/12; ARC 2744C, IAB 10/12/16, effective 11/16/16; ARC 5773C, IAB 7/14/21, effective 8/18/21; ARC 6146C, IAB 1/12/22, effective 2/16/22]

645—361.3(154E) Requirements for temporary license.

361.3(1) An applicant who has not successfully completed one of the board-approved examinations or does not hold an approved certification set forth in paragraph 361.2(1)“d” and submits the online

application and fee for a temporary license shall cause documentation to be submitted from the examination program to the board that verifies the applicant has passed one of the following:

- a. The written portion of the Registry of Interpreters for the Deaf (RID) examination;
- b. The written portion of the Board for Evaluation of Interpreters (BEI) examination;
- c. The written portion of the Educational Interpreter Performance Assessment (EIPA) examination;
- d. The EIPA prehire examination at the highest recommended level;
- e. An associate degree or higher from a formal interpreter training program (ITP) with a regionally accredited college or university. An official transcript shall verify completion;
- f. The American Sign Language Proficiency Interview (ASLPI) at the 2+ level or higher; or
- g. The Sign Language Proficiency Interview (SLPI) at the intermediate level or higher.

361.3(2) An applicant for a temporary license shall submit a written supervisory agreement that complies with the requirements stated in subrule 361.3(4). The temporary license shall be valid for two years from the initial issue date. A temporary license holder may renew a temporary license once for the immediately following two-year period.

361.3(3) An applicant who is issued a temporary license is subject to the same requirements as those required of a licensed interpreter or transliterator set forth in Iowa Code chapters 154E and 147 and 645—Chapters 361 to 363.

361.3(4) A temporary license holder is only authorized to practice if the following direct supervision requirements are fulfilled. A temporary license holder must:

- a. Enter into a written agreement with a supervisor in which the temporary license holder and the supervisor agree to the minimum requirements provided in paragraphs 361.3(4) “b” and “c.” The supervisor shall possess a full, unrestricted sign language interpreter and transliterator license. The agreement shall be signed and dated by the temporary license holder and the supervisor; shall include the temporary license holder’s and supervisor’s names, addresses and contact information; and shall be provided to the board with the application for a temporary license.

- b. Have a supervisor observe the temporary license holder in active practice for no fewer than six bimonthly observation sessions per year at events lasting at least 30 minutes each, if the temporary license holder is working alone in providing active interpreter or transliterator services, or at least 60 minutes each, if the temporary license holder is working in a team interpreting situation. At least two of the observation sessions must be in person, and the remainder of the observation sessions may be performed through technology that allows direct observation of the temporary license holder providing active interpreter or transliterator services.

- c. Attend at least six bimonthly advisory sessions with the supervisor per year for the purpose of discussing the supervisor’s suggestions for the temporary license holder’s professional skill development based on the observation sessions. An advisory session may occur immediately following an observation session if the setting is appropriate. At least two of the advisory sessions must be in person and the remainder of the advisory sessions may be performed through technology that allows real-time assessment and feedback. Each advisory session shall involve only the temporary license holder and supervisor.

- d. Maintain an event log documenting the date, time, length and setting of each observation session and advisory session and whether the session was performed in person or through other technological means. The temporary license holder shall ensure that the supervisor verifies the occurrence of the observation session or advisory session by placing the temporary license holder’s signature on the log prior to submission to the supervisor. This event log shall be provided to the board upon request and must be submitted with the temporary license holder’s renewal application.

- e. Ensure that the supervisor attends each of the observation sessions and advisory sessions or reschedules the sessions as necessary to ensure compliance.

- f. Comply with the required observation session and advisory session obligations. If for any reason the replacement of a supervisor becomes necessary, the temporary license holder shall be responsible for developing a new written agreement with the new supervisor. A replacement of supervisors shall not excuse noncompliance with observation session and advisory session obligations.

g. Obtain permission from clients as necessary to allow the supervisor to be in attendance during the observation sessions.

361.3(5) As an Iowa-licensed practitioner in accordance with this chapter, a supervisor providing direct supervision of a temporary license holder as provided in subrule 361.3(4) is obligated to report to the board an interpreter or transliterator temporary license holder who is not complying with direct supervision requirements or who is not practicing in compliance with Iowa law and rules including, but not limited to, Iowa Code chapter 154E and 645—Chapters 361 to 363.

[ARC 2744C, IAB 10/12/16, effective 11/16/16; ARC 6146C, IAB 1/12/22, effective 2/16/22]

645—361.4(154E) Licensure by endorsement.

361.4(1) An applicant who has been a licensed sign language interpreter or transliterator under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

- a. Submits to the board a completed application;
- b. Pays the licensure fee;
- c. Shows evidence of licensure requirements that are similar to those required in Iowa;
- d. Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board;
- e. Provides:
 - (1) Examination scores which shall be sent directly from the examination service to the board; or
 - (2) A notarized certificate which shall be submitted showing proof of the successful completion of the examination specified in rule 645—361.2(154E); and
- f. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification directly from the jurisdiction's board office if the verification provides:
 - (1) The licensee's name;
 - (2) The date of initial licensure;
 - (3) Current licensure status; and
 - (4) Any disciplinary action taken against the license.

361.4(2) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

[ARC 2744C, IAB 10/12/16, effective 11/16/16; ARC 5773C, IAB 7/14/21, effective 8/18/21]

645—361.5(154E) License renewal.

361.5(1) The biennial license renewal period for a license to practice as a sign language interpreter or transliterator shall begin on July 1 of an odd-numbered year and end on June 30 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

361.5(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

361.5(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements as provided in 645—subrules 362.2(1) and 362.2(2) or, in lieu of meeting such requirements, provide proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) as evidence of meeting continuing education requirements. A licensee whose license was reactivated during the current biennial license period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

361.5(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the

renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

361.5(5) A person licensed to practice as a sign language interpreter or transliterator shall keep the person's license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

361.5(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.18(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

361.5(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a sign language interpreter or transliterator in Iowa until the license is reactivated. A licensee who practices as a sign language interpreter or transliterator in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 9427B, IAB 3/23/11, effective 4/27/11; ARC 5773C, IAB 7/14/21, effective 8/18/21]

645—361.6 to 361.8 Reserved.

645—361.9(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

361.9(1) Submit a reactivation application on a form provided by the board.

361.9(2) Pay the reactivation fee that is due as specified in 645—subrule 5.18(9).

361.9(3) Provide verification of current competence to practice sign language interpreting or transliterating by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completing 40 hours of continuing education within two years of the application for reactivation; and

(3) Verification of a current certification as identified in subrule 361.2(1), or of passing an examination identified in subrule 361.2(1), which was passed after the license became inactive.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation; and

(3) Verification of a current certification as identified in subrule 361.2(1), or of passing an examination identified in subrule 361.2(1), which was passed after the license became inactive.
[ARC 6146C, IAB 1/12/22, effective 2/16/22]

645—361.10(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—361.9(17A,147,272C) prior to practicing sign language interpreting or transliterating in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

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REVENUE DEPARTMENT[701]

Created by 1986 Iowa Acts, chapter 1245.

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[Prior to 12/17/86, Revenue Department[730]]

701—42.1(257,422) School district surtax. Iowa law provides for the implementation of an income surtax for increasing local school district budgets. The surtax must be approved by the voters of a school district in a special election or by a resolution of the board of directors of a school district. The surtax rate is determined by the department of management on the basis of the revenue to be raised by the surtax for the particular school district with the surtax.

The school district surtax is imposed on the income tax liabilities of all taxpayers residing in the school district on the last day of the taxpayers' tax years. For purposes of the school district surtax, income tax liability is the tax computed under Iowa Code section 422.5, less the nonrefundable credits against computed tax which are authorized in Iowa Code chapter 422, division II.

In a situation where an individual is residing in a school district with a surtax and the individual dies during the tax year, the individual will be considered to be subject to the surtax, since the individual was residing in the school district on the last day of the individual's tax year.

An individual serving in the Armed Forces of the United States who maintains permanent residence in an Iowa school district with a surtax is subject to the surtax regardless of whether the individual is physically residing in the school district on the last day of the tax year.

A person who is present in the school district on the last day of the tax year on a temporary basis due to annual leave or in transit between duty stations is not subject to the surtax.

This rule is intended to implement Iowa Code sections 257.21, 257.29, and 422.15.
[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.2(422D) Emergency medical services income surtax. Effective July 1, 1992, a county board of supervisors may offer for voter approval a local option income surtax, an ad valorem property tax, or a combination of the two taxes to generate revenues for emergency medical services. However, this rule pertains only to the local option income surtax for emergency medical services. If a majority of those voting in the election approve the emergency medical services income surtax, the income surtax will be imposed for tax years beginning on or after January 1 of the fiscal year in which the election is held. Thus, if an election is held in the 2007-2008 fiscal year (July 1, 2007, through June 30, 2008) and the income surtax is approved in the election, the income surtax will be imposed on 2008 returns for individuals filing on a calendar-year basis. In the case of individuals filing on a fiscal-year basis, the income surtax will be imposed on returns for tax years beginning in the 2008 fiscal year. If an emergency medical services income surtax is imposed for a county, it can be imposed only for a maximum period of five years. When the emergency medical income surtax is repealed because the five-year imposition has expired, the income surtax is repealed as of December 31 for tax years beginning on or after that date.

42.2(1) *The rate of the income surtax imposed for emergency medical services.* After the income surtax is approved by an election of county voters, the board of supervisors will set the rate of tax to be imposed, which can be expressed in tenths of 1 percent or hundredths of 1 percent but cannot exceed 1 percent. In addition, because the cumulative total of the percents of income surtax imposed on any taxpayer in the county cannot exceed 20 percent, the rate of an emergency medical services income surtax may be limited, if a school district income surtax has been approved previously by a school district in the county and the surtax rate exceeds 19 percent. Therefore, assuming that a school district in the county had previously approved an income surtax rate of 19.4 percent, the medical emergency income surtax rate would be limited to six-tenths of 1 percent. If a school district income surtax and emergency medical income surtax are approved on or about the same date and the cumulative total of the income surtaxes is greater than 20 percent, the income surtax approved on the earlier of the two dates will be allowed at the rate approved and the second income surtax approved will be limited accordingly so that the cumulative rate will not exceed 20 percent. If a school district income surtax and an emergency medical income surtax are approved on the same date with a proposed cumulative rate that exceeds 20 percent, each of the surtaxes will be reduced equally so that the cumulative surtax rate will not exceed 20 percent. Assuming that a school district in a particular county approves an income surtax of 20 percent

on November 4, 2008, and an emergency medical income surtax of 1 percent is approved on the same date, both surtaxes will be reduced by five-tenths of 1 percent so that the cumulative rate of the two income surtaxes does not exceed 20 percent. The department of management can provide information about any income surtaxes that have been approved for the school districts in the county.

42.2(2) *Imposing the emergency medical income surtax.* The emergency medical income surtax will be imposed on the state income tax liability on each individual residing in the county at the end of the individual's tax year, whether the individual's tax year ends at the end of the calendar year or fiscal year. For purposes of the emergency medical income surtax, an individual's income tax liability is the aggregate of the state income taxes determined in Iowa Code section 422.5 less the nonrefundable credits against computed income tax which are authorized in Iowa Code chapter 422, division II.

42.2(3) *Administering the emergency medical income surtax.* The director of revenue shall administer the emergency medical income surtax in the same way as other state individual tax laws are administered. All powers and requirements related to administering the state income tax law apply to the administration of the emergency medical income surtax including, but not limited to, the provisions of Iowa Code sections 422.4, 422.20 to 422.31, 422.68, 422.70, and 422.72 to 422.75. The county board of supervisors and county officials shall confer with the director for assistance in drafting the ordinance imposing the emergency medical income surtax. Certified copies of the ordinance shall be filed with the department of revenue and the department of management within 30 days after the emergency medical income surtax is approved.

42.2(4) *Accounting for the emergency medical income surtax and paying the surtax.* The department shall account for the emergency medical income surtax and any interest and penalties on the surtax so that there is a separate accounting for each county where the income surtax is imposed. The accounting shall be applicable to those individual income tax returns filed on or before November 1 of the calendar year following the tax year for which the tax is imposed. The emergency medical income surtax and any penalties and interest should be credited to a "local income surtax fund" established in the office of the state treasurer. On or before December 15 of the year after the tax year, the director of revenue shall certify to the state treasurer the income surtax and any interest and penalties collected from returns filed on or before November 1.

This rule is intended to implement Iowa Code chapter 422D.
[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.3(422) Exemption credits.

42.3(1) A single person shall deduct from the computed tax a personal exemption credit of \$40. A single person is defined in 701—subrule 39.4(1).

42.3(2) A married person living with husband or wife at the close of the taxable year, or living with husband or wife at the time of the death of that spouse during the taxable year, shall, if a joint return is filed, deduct from the computed tax a personal exemption of \$80. Where such spouse files a separate return, each spouse is entitled to deduct from the computed tax a personal exemption of \$40. The personal exemption may not be divided between the spouses in any other proportion.

42.3(3) A taxpayer shall deduct from computed tax an exemption of \$40 for each dependent. "Dependent" has the same meaning as provided by the Internal Revenue Code, and the same dependents shall be claimed for Iowa income tax purposes as the taxpayer is entitled to claim for federal income tax purposes. If each spouse furnished 50 percent of the support, the spouses must elect between them which spouse is to be entitled to claim the dependent. The dividing of dependent credits applies only to the number of dependents and not to the credit amount for a particular dependent.

42.3(4) A head of household as defined in 701—subrule 39.4(7) is allowed a personal exemption credit of \$80.

42.3(5) A taxpayer who is 65 years of age on or before the first day following the end of the tax year is allowed an additional personal exemption credit of \$20 in addition to any other credits allowed by this rule.

42.3(6) A taxpayer who is blind, as defined in Iowa Code section 422.12(1) "e," is allowed a personal exemption credit of \$20 in addition to any other credits allowed by this rule.

42.3(7) A nonresident taxpayer or a part-year resident taxpayer will be allowed to deduct personal exemption credits as if the nonresident taxpayer or part-year taxpayer was a resident for the entire year.

This rule is intended to implement Iowa Code section 422.12.

[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.4(422) Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa. Effective for tax years beginning on or after January 1, 1998, taxpayers who pay tuition and textbook expenses of dependents who attend grades kindergarten through 12 in an Iowa school may receive a tax credit of 25 percent of up to \$1,000 of qualifying expenses for each dependent attending an elementary or secondary school located in Iowa. In order for the taxpayer to qualify for the tax credit for tuition and textbooks, the elementary school or secondary school that the dependent is attending must meet the standards for accreditation of public and nonpublic schools in Iowa provided in Iowa Code section 256.11. In addition, the school the dependent is attending must not be operated for profit and must adhere to the provisions of the United States Civil Rights Act of 1964, and the provisions of Iowa Code chapter 216, which is known as the Iowa civil rights Act of 1965. The following definitions and criteria apply to the determination of the tax credit for amounts paid by the taxpayer for tuition and textbooks for a dependent attending an elementary or secondary school in Iowa:

42.4(1) Tuition. For purposes of the tuition and textbook tax credit, “tuition” means any charge made by an elementary or secondary school for the expense of personnel, buildings, equipment and materials other than textbooks, and other expenses of elementary or secondary schools which relate to the teaching of only those subjects that are legally and commonly taught in public elementary or secondary schools in Iowa. “Tuition” includes charges by a qualified school for summer school classes or for private instruction of a child who is physically unable to attend classes at the site of the elementary or secondary school.

“Tuition” does not include charges or fees which relate to the teaching of religious tenets, doctrines, or worship in cases where the purpose of the teaching is to inculcate the religious tenets, doctrines, or worship. In addition, “tuition” does not include amounts paid to an individual or other entity for private instruction of a dependent who attends an elementary or secondary school in Iowa. Amounts paid to a school for meals, lodging, or clothing for a dependent do not qualify for the tax credit for tuition.

Amounts paid to an individual or organization for home schooling of a dependent or the teaching of a dependent outside of an elementary or secondary school may not be claimed for purposes of the tuition and textbook tax credit.

42.4(2) Textbooks. For purposes of the tuition and textbook tax credit, “textbooks” means books and other instructional materials used in elementary and secondary schools in Iowa to teach only those subjects legally and commonly taught in public elementary and secondary schools in Iowa. “Textbooks” includes fees or charges by the elementary or secondary school for required supplies or materials for classes in art, home economics, shop or similar courses. “Textbooks” also includes books and materials used for extracurricular activities, such as sporting events, musical events, dramatic events, speech activities, driver’s education, or programs of a similar nature.

“Textbooks” does not include amounts paid for books or other instructional materials used in the teaching of religious tenets, doctrines, or worship, in cases where the purpose of the teaching is to inculcate the religious tenets, doctrine, or worship. “Textbooks” also does not include amounts paid for books or other instructional materials used in teaching a dependent subjects in the home or outside of an elementary or secondary school.

42.4(3) Extracurricular activities. For purposes of the tuition and textbook tax credit, amounts paid for dependents to participate in or to attend extracurricular activities may be claimed as part of the tuition and textbook tax credit. “Extracurricular activities” includes sporting events, musical events, dramatic events, speech activities, driver’s education if provided at a school, and programs of a similar nature.

a. The following are specific examples of expenditures related to a dependent’s participation in or attendance at extracurricular activities that may qualify for the tuition and textbook tax credit:

- (1) Fees for participation in school sports activities.
- (2) Fees for field trips.

(3) Rental fees for instruments for school bands or orchestras but not rental fees in rent-to-own contracts.

(4) Driver's education fees, if paid to a school.

(5) Cost of activity tickets or admission tickets to school sporting, music and dramatic events.

(6) Fees for events such as homecoming, winter formal, prom, or similar events.

(7) Rental of costumes for school plays.

(8) Purchase of costumes for school plays if the costumes are not suitable for street wear.

(9) Purchase of track shoes, football shoes, or other athletic shoes with cleats, spikes, or other features that are not suitable for street wear.

(10) Costs of tickets or other admission fees to attend banquets or buffets for school academic or athletic awards.

(11) Trumpet grease, woodwind reeds, guitar picks, violin strings and similar types of items for maintenance of instruments used in school bands or orchestras.

(12) Band booster club or athletic booster club dues, but only if dues are for the dependent attending the school and not the parent or adult.

(13) Rental of formal gown or tuxedo for school dance or other school event.

(14) Dues paid to school clubs or school-sponsored organizations such as chess club, photography club, debate club, or similar organizations.

(15) Amounts paid for music that will be used in school music programs, including vocal music programs.

(16) Fees paid for general materials for shop class, agriculture class, home economics class, or auto repair class and general fees for equivalent classes.

(17) Fees for a dependent's bus trips to attend school if paid to the school.

b. The following are specific examples of expenditures related to a dependent's participation in or attendance at extracurricular activities that will not qualify for the tuition and textbook credit.

(1) Purchase of a musical instrument used in a school band or orchestra.

(2) Purchase of basketball shoes or other athletic shoes that are readily adaptable to street wear.

(3) Amounts paid for special testing such as SAT or PSAT, and for Iowa talent search tests.

(4) Payments for senior trips, band trips, and other overnight school activity trips which involve payment for meals and lodging.

(5) Fees paid to K-12 schools for courses for college credit.

(6) Amounts paid for T-shirts, sweatshirts and similar clothing that is appropriate for street wear.

(7) Amounts paid for special programs at universities and colleges for high school students.

(8) Payment for private instrumental lessons, voice lessons or similar lessons.

(9) Amounts paid for a school yearbook, annual or class ring.

(10) Fees for special materials paid for shop class, agriculture class, auto repair class, home economics class and similar classes. For purposes of this paragraph, "special materials" means materials used for personal projects of the dependents, such as materials to make furniture for personal use, automobile parts for family automobiles and other materials for projects for personal or family benefit.

42.4(4) *Claiming the credit.* The credit can only be claimed by the spouse who claims the dependent credit on the Iowa tax return as described in subrule 42.3(3). For example, for divorced or separated parents, only the spouse who claims the dependent credit on the Iowa return can claim the tuition and textbook credit for tuition and textbook expenses for that dependent.

In cases where married taxpayers file separately on a combined return form, the tuition and textbook credit shall be allocated between the spouses in the ratio in which the dependent credit was claimed between the spouses.

EXAMPLE: A married couple has two dependent children and claimed a tuition and textbook credit of \$500 related to both children on their 2011 Iowa return. The taxpayers filed separately on a combined Iowa return form for 2011. One spouse claimed both of the dependent credits on the Iowa return. The \$500 tuition and textbook credit will be claimed by the spouse who claimed the dependent credits on the Iowa return.

EXAMPLE: A married couple has three dependent children and claimed a tuition and textbook credit of \$600 related to all three children on their 2011 Iowa return. The taxpayers filed separately on a combined Iowa return form for 2011. One spouse claimed one dependent credit, and the other spouse claimed two dependent credits on the Iowa return. The spouse who claimed one dependent credit will claim \$200 of the tuition and textbook credit, while the spouse who claimed two dependent credits will claim \$400 of the tuition and textbook credit.

This rule is intended to implement Iowa Code section 422.12.
[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9820B, IAB 11/2/11, effective 12/7/11]

701—42.5(422) Nonresident and part-year resident credit. An individual who is a nonresident of Iowa for the entire tax year, or an individual who is an Iowa resident for a portion of the tax year, is allowed a credit against the individual's Iowa income tax liability for the Iowa income tax on the portion of the individual's income which was earned outside Iowa while the person was a nonresident of Iowa. This credit is computed on Schedule IA 126. The following subrules explain how the credit is computed for taxpayers who are nonresidents of Iowa and taxpayers who are part-year residents of Iowa.

42.5(1) Credit calculation for nonresidents of Iowa.

a. Prior to the calculation of the nonresident credit, a nonresident of Iowa shall compute taxable income in the same manner as a full-year Iowa resident. Thus, a nonresident would have the same initial Iowa income tax liability as a full-year Iowa resident taxpayer with the same taxable income before the nonresident credit is computed.

b. The nonresident credit is computed by dividing the taxpayer's Iowa source net income by the taxpayer's total net income. See 701—Chapter 40 to determine a nonresident's Iowa source net income and total net income. This Iowa income percentage is rounded to the nearest tenth of a percent (e.g., 1.2 percent) for tax years beginning before January 1, 2022, and to the nearest ten-thousandth of a percent (e.g., 1.2345 percent) for tax years beginning on or after January 1, 2022. The Iowa income percentage is then subtracted from 100 percent to arrive at the nonresident credit percentage, which represents the percentage of the individual's total income which was earned outside Iowa. The nonresident credit percentage is multiplied by the net Iowa tax to compute the nonresident credit. For purposes of this subrule, "net Iowa tax" means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12.

EXAMPLE 1: A single resident of Nebraska had Iowa source net income of \$15,000 in 2022 from wages earned from employment in Iowa. The rest of this person's income was attributable to sources outside Iowa. This nonresident of Iowa had a total net income of \$40,000 and a taxable income of \$30,000 due to allowable deductions. The Iowa income percentage is computed by dividing the Iowa source net income of \$15,000 by the taxpayer's total net income of \$40,000, which results in a percentage of 37.5000. This percentage is subtracted from 100 percent, which leaves a nonresident credit percentage of 62.5000.

The Iowa tax before reduction for the nonrefundable credits under Iowa Code section 422.12 is \$1,508. The individual is allowed an exemption credit under Iowa Code section 422.12 of \$40, which leaves a tax amount of \$1,468 (\$1,508 - \$40). When \$1,468 is multiplied by the nonresident credit percentage of 62.5000, a nonresident credit of \$918 is computed.

EXAMPLE 2: A California resident, who was married, had \$20,000 of Iowa source net income in 2022 from an Iowa farm. This individual had an additional \$80,000 in net income that was attributable to sources outside Iowa, but the individual's spouse had no income. The taxpayers had a total net income of \$100,000 and a taxable income of \$70,000 due to allowable deductions.

The taxpayers had an Iowa income tax liability of \$4,583 after application of the personal exemption credits of \$80 under Iowa Code section 422.12. The taxpayers had an Iowa source net income of \$20,000 and a total net income of \$100,000. Therefore, the Iowa income percentage was 20.0000. Subtracting the Iowa income percentage of 20 percent from 100 percent leaves a nonresident credit percentage of 80.0000.

When the Iowa income tax liability of \$4,583 is multiplied by 80 percent, this results in a nonresident credit of \$3,666.

42.5(2) Credit calculation for part-year residents of Iowa.

a. Prior to the calculation of the part-year resident credit, an individual who is a resident of Iowa for part of the tax year shall compute taxable income in the same manner as a full-year Iowa resident. Therefore, a part-year resident would have the same initial Iowa income tax liability as a full-year Iowa resident with the same taxable income before computation of the part-year resident credit.

b. The part-year resident credit for a part-year resident is computed by adding all the individual's net income received while the taxpayer was a resident of Iowa and all the Iowa source net income received during the period of the tax year when the individual was a nonresident of Iowa, and dividing that sum by the taxpayer's total net income. See 701—Chapter 40 to determine a part-year resident's Iowa source net income and total net income. This Iowa income percentage is rounded to the nearest tenth of a percent (e.g., 1.2 percent) for tax years beginning before January 1, 2022, and to the nearest ten-thousandth of a percent (e.g., 1.2345 percent) for tax years beginning on or after January 1, 2022. The Iowa income percentage is then subtracted from 100 percent to arrive at the part-year resident credit percentage, which represents the percentage of the individual's total income which was earned outside of Iowa while a nonresident. The part-year resident credit percentage is multiplied by the net Iowa tax to compute the part-year resident credit. For purposes of this subrule, "net Iowa tax" means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12.

EXAMPLE 3: A single individual was a resident of Nebraska for the first half of 2022 and moved to Iowa on July 1, 2022, to accept a job in Des Moines. This individual earned \$20,000 from wages, \$200 from interest, and \$4,000 from a ranch in Nebraska from January 1, 2022, through June 30, 2022. In the second half of 2022, this person had wages of \$30,000, interest income of \$300, and \$4,000 from the Nebraska ranch. This part-year resident had \$14,000 of allowable deductions.

The part-year resident's total net income was \$58,500 and the Iowa source net income was \$34,300, which includes the Iowa wages, the Nebraska ranch income of \$4,000 earned during the individual's period of Iowa residence, as well as the interest income of \$300 earned during that time of the tax year. The Iowa taxable income for the part-year resident for 2022 was \$44,500 due to allowable deductions of \$14,000 (\$58,500 - \$14,000). The individual's Iowa income percentage was 58.6325, which was determined by dividing the Iowa source income of \$34,300 by the total income of \$58,500. Subtracting the Iowa income percentage of 58.6325 from 100 percent results in a part-year resident credit percentage of 41.3675. The Iowa tax on total income was \$2,529, which was reduced to \$2,489 after subtraction of the personal exemption credit of \$40 under Iowa Code section 422.12.

When \$2,489 is multiplied by the part-year resident percentage of 41.3675, a part-year resident credit of \$1,030 is computed for this part-year resident.

EXAMPLE 4: A single individual moved from Minnesota to Iowa on July 1, 2022. This person earned \$5,000 in income from an Iowa farm in the first half of the tax year and another \$10,000 from this farm in the second half of the tax year. This person had \$10,000 in wages from employment in Minnesota in the first half of the year and another \$15,000 in wages from employment in Iowa in the second half of the tax year. This person had \$2,000 in interest from a bank in the first half of the year and \$2,000 in interest from a bank in the second half of the tax year.

The part-year resident's total net income was \$44,000 and the Iowa source net income was \$32,000, which consisted of \$15,000 in wages, \$2,000 in interest income, and \$15,000 in income from the Iowa farm. Since the farm was in Iowa, all farm income, including the income received while the individual was not a resident of Iowa, was taxable to Iowa. The individual's Iowa taxable income was \$34,250, which was computed after subtracting \$9,750 in allowable deductions (\$44,000 - \$9,750). The taxpayer's Iowa income tax liability was \$1,757 after subtraction of a personal exemption credit of \$40 under Iowa Code section 422.12.

The taxpayer's Iowa income percentage was 72.7273, which was computed by dividing the Iowa source net income of \$32,000 by the total net income of \$44,000. The part-year resident credit percentage was 27.2727, which was arrived at by subtracting the Iowa income percentage of 72.7273 from 100 percent. The taxpayer's part-year resident credit is \$479. This was determined by multiplying the Iowa

income tax liability after personal exemption credit amount of \$1,757 by the part-year resident percentage of 27.2727.

This rule is intended to implement Iowa Code section 422.5.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 1665C, IAB 10/15/14, effective 11/19/14; ARC 6031C, IAB 11/3/21, effective 12/8/21]

701—42.6(422) Out-of-state tax credits.

42.6(1) Definitions. For purposes of this rule:

“*Foreign country*” means any country, other than the United States, and any political subdivision of that country.

“*Income tax*” means any direct tax imposed upon a taxpayer and measured by the taxpayer’s income for a specified period of time. The out-of-state jurisdiction’s characterization of the tax is not controlling in the department’s determination of whether a tax is an income tax. Fees, penalty, and interest paid in connection with an income tax do not qualify. For purposes of this rule, the term “income tax” does not include a minimum tax imposed on preference items.

“*Pass-through entity*” means an entity taxed as a partnership for federal tax purposes, an S corporation, an estate, or a trust other than grantor trusts.

“*Regulated investment company*” means any domestic corporation that meets the requirements of Section 851 of the Internal Revenue Code and that has made a valid election under Section 853 of the Internal Revenue Code to have its shareholders’ pro rata share of entity-level income tax paid by the electing corporation be deemed to have been paid by its shareholders. The term “regulated investment company” includes, but is not limited to, a mutual fund.

“*State*” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any political subdivision thereof.

“*Tiered owner*” means an owner or beneficiary of a pass-through entity that is itself a pass-through entity.

42.6(2) General application.

a. Residents. Iowa residents, including part-year residents, are allowed an out-of-state tax credit against the resident’s Iowa income tax liability for income taxes owed and paid by the resident to another state or foreign country on income for which all of the following are true:

(1) The income was derived from sources within the other state or foreign country. In determining whether income is derived from sources within that other state or foreign country, Iowa statutes and rules on the sourcing of a nonresident’s income shall govern.

(2) The income is subject to Iowa income tax. Income tax imposed by another state or foreign country on income that is not subject to Iowa income tax does not qualify for the credit.

(3) The income was earned while the taxpayer was an Iowa resident and is included on the resident’s Iowa income tax return. The credit is allowable only if the taxpayer files an Iowa income tax return as a resident or part-year resident.

b. Nonresidents. Nonresidents of Iowa shall not claim the out-of-state tax credit.

42.6(3) Rule for pass-through entities.

a. Direct owners.

(1) If the Iowa resident is a direct partner, shareholder, or beneficiary of a pass-through entity that owed and paid entity-level income tax, or income tax on a composite return basis, to another state or foreign country on income derived from sources in that state or foreign country, the resident is allowed to treat the resident’s pro rata share of that income tax as paid by the resident for purposes of the out-of-state tax credit, provided the resident’s pro rata share of that income flows through to the resident and meets the requirements of paragraph 42.6(2) “a.”

(2) The entity-level income tax or composite income tax paid to the other state or foreign country is the net state or foreign income tax actually owed and paid for the tax year on income taxed by that state or foreign country, as properly computed on the pass-through entity’s income tax return or composite return (not a withholding return) in the other state or foreign country after reduction for all nonrefundable credits provided to the pass-through entity. Paragraph 42.6(6) “b” provides an additional limitation if the Iowa

resident receives a refundable credit in the other state or foreign country for the Iowa resident's share of the income tax owed and paid by the pass-through entity. The resident's pro rata share of entity-level income tax or composite income tax paid by the pass-through entity shall be in the same proportion as the resident's pro rata share of income derived from sources in that state or foreign country, as properly reported on the entity's return in the other state or foreign country.

(3) To qualify, the pass-through entity must provide to the resident a statement identifying the jurisdiction and the resident's pro rata share of the income, income tax liability, and income tax paid in that jurisdiction.

EXAMPLE 1: Partnership W earns \$2,000 of income in state A, which imposes an entity-level income tax directly on the partnership. Partnership W pays \$100 of income tax to state A. Partnership W is owned 50 percent by Partnership X and 50 percent by individual Y, a resident of Iowa. Individual Y receives a statement from Partnership W showing that Partnership W earned \$2,000 of income and paid \$100 of entity-level income tax to state A and that individual Y's pro rata share of that income and entity-level income tax is \$1,000 and \$50, respectively. If that \$1,000 of income from Partnership W is subject to Iowa income tax and included on individual Y's Iowa income tax return as earned while an Iowa resident, individual Y will be entitled to treat the \$50 of income tax paid by Partnership W to state A as paid by individual Y in the computation of Y's out-of-state tax credit.

b. Indirect owners.

(1) If the Iowa resident is an indirect partner, shareholder, or beneficiary of a pass-through entity that paid entity-level income tax, or income tax on a composite return basis, to another state or foreign country on income derived from sources in that state or foreign country, the resident is allowed to treat the resident's pro rata share of that income tax as paid by the resident for purposes of the out-of-state tax credit if both of the following requirements are satisfied:

1. The tiered owner reduces the amount of the paying pass-through entity's income tax that the tiered owner reports to its partners, shareholders, or beneficiaries by the amount of any credit available from that other state or foreign country to the tiered owner for the tax liability of the paying pass-through entity.

2. The resident's pro rata share of that income flows through one or more tiered owners to the resident and meets the requirements of paragraph 42.6(2) "a."

(2) The entity-level income tax or composite income tax paid to the other state or foreign country is the net state or foreign income tax actually owed and paid for the tax year on income taxed by that state or foreign country, as properly computed on the pass-through entity's income tax return or composite tax return (not a withholding return) in the other state or foreign country, after reduction for all nonrefundable credits provided to the pass-through entity, and after further reduction by a tiered owner for any credits provided by that other state or foreign country to the tiered owner for the tax liability of the paying pass-through entity. Paragraph 42.6(6) "b" provides an additional limitation if the Iowa resident receives a refundable credit in the other state or foreign country for the Iowa resident's share of the income tax owed and paid by a pass-through entity. The resident's pro rata share of entity-level income tax or composite income tax paid by the pass-through entity shall be in the same proportion as the resident's pro rata share of income derived from sources in that state or foreign country, as properly reported on the entity's return in the other state or foreign country, after flowing through one or more tiered pass-through entities to the resident.

(3) To qualify, the paying pass-through entity must provide to the tiered owner a statement identifying the jurisdiction and the tiered owner's pro rata share of the income, income tax liability, and income tax paid in that jurisdiction. The tiered owner, in turn, must provide the indirect partner, shareholder, or beneficiary with a statement that includes all of the following information:

1. The jurisdiction to which income tax was paid; the paying pass-through entity and any other tiered owner through which the income flowed; and the indirect partner's, shareholder's, or beneficiary's pro rata share of the paying pass-through entity's income.

2. The indirect partner's, shareholder's, or beneficiary's pro rata share of the paying pass-through entity's income tax liability and income tax paid to the other jurisdiction after reduction for any credit

available to the tiered owner for the tax liability of the paying pass-through entity. If no such credit was provided to the tiered owner, the statement must include a declaration from the tiered owner to that effect.

EXAMPLE 2: Assume the same facts as Example 1. Partnership X (a tiered owner) receives a statement from Partnership W which shows that W earned \$2,000 of income in state A and paid \$100 of entity-level income tax to state A and that Partnership X's pro rata share of that income and entity-level income tax is \$1,000 and \$50, respectively. Partnership X is not eligible for a credit in state A for its share of the entity-level income tax paid by Partnership W. Partnership X is owned 50 percent by individual Z, a resident of Iowa. Individual Z then receives a statement from Partnership X indicating that Partnership X was not eligible for a credit for the tax paid by Partnership W, that Z's pro rata share of Partnership W's income taxed by state A is \$500, and that Z's pro rata share of Partnership W's income tax imposed by and paid to state A is \$25. If that \$500 of income from Partnership W flows through Partnership X to individual Z, is subject to Iowa income tax, and is included on Z's Iowa income tax return as earned while an Iowa resident, Z will be entitled to treat the \$25 of income tax paid by Partnership W to state A as paid by Z in the computation of Z's out-of-state tax credit.

EXAMPLE 3: Assume the same facts as Example 2, except that Partnership X (a tiered owner) is eligible for a \$50 credit in state A for its share of the entity-level income tax paid by Partnership W to state A. Partnership X must reduce its share of Partnership W's entity-level income tax (\$50) that it can report to its partners by the amount of the credit provided by state A for that tax (\$50). Therefore, Partnership X cannot pass Partnership W's entity-level income tax through to individual Z, and Z cannot treat a pro rata share of Partnership W's entity-level income tax as paid by Z. However, if Partnership X is itself subject to and pays an entity-level income tax in state A, it may be allowed to pass through, and individual Z may be allowed to treat as paid by Z a pro rata share of the entity-level income tax paid by Partnership X in state A in the same manner as described in paragraph 42.6(3) "a."

42.6(4) Rule for regulated investment companies. If the Iowa resident is a shareholder of a regulated investment company making an election under Section 853 of the Internal Revenue Code, the resident shareholder is allowed an out-of-state tax credit for the resident shareholder's pro rata share of entity-level income tax paid to a foreign country or possession of the United States by the regulated investment company and treated as paid by the resident shareholder under Section 853 of the Internal Revenue Code if the income taxed by the foreign country or possession of the United States is also subject to tax in Iowa and is included on the resident shareholder's Iowa income tax return as earned while an Iowa resident. To qualify, the regulated investment company must provide to the resident shareholder a statement identifying the jurisdiction and the resident shareholder's pro rata share of the income, income tax liability, and income tax paid in that jurisdiction.

EXAMPLE 4: Individual D is a resident of Iowa and a shareholder of a mutual fund that paid income tax to foreign jurisdictions and that made an election under Section 853 of the Internal Revenue Code. On the annual, year-end tax statement, the mutual fund reported \$2,000 of income to individual D and \$10 of foreign tax paid with respect to D's income. If that \$2,000 of income from the mutual fund is subject to Iowa income tax and included on individual D's Iowa income tax return as earned while an Iowa resident, D will be entitled to treat the \$10 of income tax paid by the mutual fund to the foreign jurisdictions as paid by D in the computation of D's out-of-state tax credit.

42.6(5) Computing the out-of-state tax credit—preliminary calculation.

a. Required form. The tax credit must be computed on the IA 130, Iowa Out-of-State Tax Credit Schedule. Married taxpayers filing separate Iowa returns, or filing separately on a combined Iowa return, must complete a separate IA 130 for each spouse.

b. Computed separately by jurisdiction. The tax credit must be computed separately for each out-of-state jurisdiction. A separate IA 130 is required for each out-of-state jurisdiction. However, separate computations and separate IA 130s are not required for foreign income taxes paid by a regulated investment company.

c. Computed separately by income tax type. The tax credit must be computed separately for regular income tax and special lump-sum distribution tax. If the taxpayer was assessed a special tax on a lump-sum distribution by another state or foreign country, compute the tax credit separately under these rules using only the lump-sum distribution and lump-sum distribution tax imposed in Iowa

and imposed in the other state or foreign country. A lump-sum distribution taxed by another state or foreign country shall not be included as part of gross income. A minimum tax or income tax imposed on preference items derived from sources in another state or foreign country are not eligible for the out-of-state tax credit under this rule. For rules on the out-of-state tax credit with respect to minimum tax paid, see rule 701—42.7(422).

d. Full-year Iowa residents. For a taxpayer who is an Iowa resident for the entire tax year, the income tax paid to the other state or foreign country is the sum of the following amounts:

(1) Income tax treated as paid by the resident under subrules 42.6(3) and 42.6(4). The income tax shall be treated as paid by the resident for the tax year that the out-of-state pass-through income is considered taxable Iowa income to the resident.

(2) The net state or foreign income tax actually owed and paid by the resident for the tax year on income qualifying under paragraph 42.6(2) “a,” as properly computed on the resident’s income tax return in the other state or foreign country, less all nonrefundable credits provided to the resident, and less any refundable credits provided to the resident for entity-level income taxes or composite income taxes paid by a pass-through entity. See Example 5 below.

e. Part-year Iowa residents. A taxpayer who is a part-year resident of Iowa may only claim the out-of-state tax credit against the taxpayer’s Iowa income tax liability for income tax paid to another state or foreign country on income qualifying under paragraph 42.6(2) “a” that is earned during the period of the tax year that the taxpayer was an Iowa resident. The income tax paid to the other state or foreign country is the sum of the following amounts:

(1) Income tax treated as paid by the resident under subrules 42.6(3) and 42.6(4) on income earned during the period of the tax year that the taxpayer was an Iowa resident. The income tax shall be treated as paid by the resident for the tax year that the out-of-state pass-through income is considered taxable Iowa income.

(2) The net state or foreign income tax actually owed and paid by the taxpayer for the tax year on income qualifying under paragraph 42.6(2) “a” that was earned during the period of the tax year that the taxpayer was an Iowa resident, as properly computed on the resident’s income tax return in the other state or foreign country, less all nonrefundable credits provided to the resident, and less any refundable credits provided to the resident for entity-level income taxes or composite income taxes paid by a pass-through entity. See Example 6 below.

42.6(6) Computing the out-of-state tax credit—additional limitations and considerations.

a. Maximum credit. The out-of-state tax credit cannot exceed the amount of Iowa income tax that would have been imposed on the same income which was taxed by the other state or foreign country. The maximum out-of-state tax credit must be computed according to the formula in this paragraph. If gross income is subject to tax in a jurisdiction at more than one level (i.e., at the pass-through entity level and at the individual level), it shall only be counted once for purposes of computing the maximum credit.

(1) Full-year Iowa residents. Gross income qualifying under paragraph 42.6(2) “a” and taxed by the other state or foreign country shall be divided by the total gross income of the Iowa resident taxpayer. This quotient, multiplied by the net Iowa tax as determined on the total gross income of the taxpayer as if entirely earned in Iowa, shall be the maximum tax credit. For tax years beginning before January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest tenth of a percent (e.g., 1.2 percent). For tax years beginning on or after January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest ten-thousandth of a percent (e.g., 1.2345 percent). For purposes of this subparagraph, “net Iowa tax” means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12.

EXAMPLE 5: Taxpayer A was an Iowa resident for the entire tax year but commuted across the border and worked in state Z. Taxpayer A had wages of \$30,000 in state Z. Taxpayer A filed an income tax return in state Z reporting the \$30,000 of wages and had state Z income tax liability of \$500, which is A’s preliminary out-of-state credit under subrule 42.6(5). Taxpayer A also had income of \$10,000 from rental of an Iowa farm and another \$10,000 in interest income from a personal savings account. Taxpayer A’s total gross income for the tax year was \$50,000. Thus, 60 percent ($\$30,000 \div \$50,000$) of Taxpayer A’s income was earned in state Z. Taxpayer A’s net Iowa tax on total gross income was \$817, which

results in a maximum out-of-state credit of \$490 ($\$817 \times .60$). Therefore, the out-of-state tax credit allowed is \$490, because the maximum credit of \$490 was less than the preliminary credit of \$500.

(2) Part-year Iowa residents. Gross income qualifying under paragraph 42.6(2) “a” that was earned during the period of the tax year that the taxpayer was an Iowa resident and taxed by the other state or foreign country shall be divided by the total gross income of the Iowa taxpayer earned while an Iowa resident or otherwise sourced to Iowa. This quotient, multiplied by the net Iowa tax as determined on the total gross income of the taxpayer as if entirely earned in Iowa, shall be the maximum tax credit. For tax years beginning before January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest tenth of a percent (e.g., 1.2 percent). For tax years beginning on or after January 1, 2022, this quotient shall be computed as a percentage rounded to the nearest ten-thousandth of a percent (e.g., 1.2345 percent). For purposes of this subparagraph, “net Iowa tax” means the Iowa regular income tax after reduction for the nonrefundable credits provided in Iowa Code section 422.12 and after reduction for the nonresident and part-year resident credit in rule 701—42.5(422).

EXAMPLE 6: Taxpayer B was a part-year Iowa resident for the tax year. Taxpayer B resided in state Z for the first six months of the year and moved to Iowa on July 1 but continued to commute across the border and work in state Z. Taxpayer B was employed in state Z for the entire year and had wages of \$30,000 in state Z. Taxpayer B filed an income tax return in state Z reporting the \$30,000 of wages and had state Z income tax liability of \$1,000. The amount of gross income taxed by state Z while taxpayer B was an Iowa resident was \$15,000 (50 percent of the \$30,000 of state Z wages). Since 50 percent of the income earned in state Z was earned while taxpayer B was a resident of Iowa, the preliminary out-of-state credit under subrule 42.6(5) was \$500 ($\$1,000 \times .50$). Taxpayer B also had \$10,000 in farm rental income from farmland located in Iowa. Taxpayer B’s gross income earned while an Iowa resident and otherwise sourced to Iowa was \$25,000 (\$15,000 of wages + \$10,000 farm rental income). Thus, 60 percent of the gross income was earned in state Z while an Iowa resident ($\$15,000 \div \$25,000$). Taxpayer B’s net Iowa tax on total gross income was \$1,094, which results in a maximum out-of-state credit of \$656 ($\$1,094 \times .60$). Therefore, the out-of-state tax credit allowed is \$500, because the preliminary credit of \$500 was less than the maximum credit of \$656.

b. Refund attributable to credit for entity-level income tax or composite income tax paid by a pass-through entity. If the resident claims a refundable tax credit in another state or foreign country for entity-level income tax or composite income tax paid by a pass-through entity, that refundable credit reduces the resident’s income tax liability in that state or foreign country as described in subparagraphs 42.6(5) “d”(2) and 42.6(5) “e”(2). However, any refund attributable to that refundable credit also reduces the amount of income tax treated as paid by the resident under subrules 42.6(3) and 42.6(4). In computing this credit reduction, the refundable credit for entity-level income tax or composite income tax paid by a pass-through entity shall be applied on the other state’s or foreign country’s income tax return after all nonrefundable credits, but before any other refundable credit. The credit reduction is required whether the resident receives the refund or applies the amount to a different tax liability or tax period.

EXAMPLE 7: Individual B, a resident of Iowa and a 50 percent owner of Partnership P doing business in state Z, receives a statement from Partnership P in accordance with subparagraph 42.6(3) “a”(3) showing that P earned income in and paid entity-level income tax to state Z and individual B’s pro rata share of that income and that entity-level income tax is \$5,000 and \$250, respectively. However, individual B also receives a \$250 refundable credit from state Z for B’s share of the entity-level income tax paid by Partnership P. Individual B files an individual income tax return in state Z to report B’s pro rata share of income from Partnership P and calculates a tentative income tax of \$200, before application of the refundable credit. Individual B applies the refundable tax credit against that tentative income tax and calculates an income tax liability of \$0 and a refund of \$50 from state Z. Therefore, individual B must reduce the \$250 of entity-level income tax treated as paid by B under subrule 42.6(3) to \$200 ($\$250 - \50). Individual B files an Iowa income tax return which includes the \$5,000 of income from Partnership P earned in state Z and calculates a preliminary out-of-state tax credit under subrule 42.6(5) of \$200.

c. Taxpayers claiming the S corporation apportionment tax credit. A taxpayer who is a shareholder of an S corporation and who has income that was apportioned outside of Iowa through a claim to the S corporation apportionment tax credit is not permitted to claim the out-of-state tax

credit on the same S corporation income. Income tax paid by the resident or a pass-through entity with respect to the S corporation income shall not be included in the resident's preliminary credit calculation in paragraph 42.6(5) "d" or "e." Gross income from the S corporation shall not be included in the resident's maximum credit calculation in paragraph 42.6(6) "a."

d. *Married taxpayers using a different filing status in the other state or foreign country.* If married taxpayers use a separate filing status in the other state or foreign country, but file jointly for Iowa tax purposes, the taxpayers must combine both spouses' income and income tax paid in the other state or foreign country for purposes of computing the out-of-state tax credit. If married taxpayers file jointly in the other state or foreign country, but file separate Iowa returns, or separately on a combined Iowa return, the taxpayers must prorate the income tax paid in the other state or foreign country according to each spouse's respective gross income earned in that state or foreign country.

e. *Tax on income that does not flow through to resident.* Entity-level income tax or composite income tax paid by a pass-through entity on income that does not flow through to the Iowa resident and meet the requirements of paragraph 42.6(2) "a" does not qualify for the out-of-state tax credit. For example, a LIFO recapture tax installment paid by an S corporation in another state would not qualify because that tax is measured by the income of the entity in the last tax year it was a C corporation, when such income did not flow through to the shareholders. Also, income tax paid by a trust in another state on income not distributed to the beneficiaries would not qualify because that income did not flow through to the beneficiaries. These examples are not intended to be exhaustive.

f. *Recalculating credit following adjustments in the other jurisdiction.* If the taxpayer or the taxpayer's pass-through entity amends the amount of income or income tax liability reported and paid to the other state or foreign country, either through an amended return, audit, or otherwise, the taxpayer shall file an amended Iowa return and recalculate the allowable out-of-state tax credit. Any refund must be requested by the later of three years after the due date of the return, or one year after payment of the tax, as prescribed in Iowa Code section 422.73(2) "a." Iowa law does not provide additional time to request a refund following an audit by another state or foreign country.

g. *Nonrefundable and nontransferable.* The out-of-state tax credit cannot exceed the resident's tax liability; thus, no amount is eligible to be carried forward to any future tax year. The credit may not be transferred to any other person.

42.6(7) Claiming the out-of-state tax credit—supporting documentation. To claim the out-of-state tax credit, the taxpayer claiming the credit must submit the following to the department with the return or upon request as indicated below:

a. *Out-of-state tax return.* A copy of the income tax return filed with the other state or foreign country must be submitted. The department may further request a copy of the return which has been certified by the tax authority of that state or foreign country and showing thereon that the income tax assessed has been paid to them.

b. *Iowa income tax return.* To claim the out-of-state tax credit, a taxpayer must file an Iowa income tax return for the tax year for which the credit is claimed. A taxpayer must file an Iowa income tax return to claim the out-of-state tax credit even if the taxpayer would not otherwise have an obligation to file an Iowa income tax return for the year for which the credit is claimed.

c. *Iowa out-of-state tax credit schedule.* An IA 130, Iowa Out-of-State Tax Credit Schedule, must be submitted for the tax year for which the credit is claimed.

d. *Pass-through entity statements.* A taxpayer who is claiming an out-of-state tax credit for entity-level income tax or composite income tax paid by a pass-through entity must submit a statement from the pass-through entity that meets the requirements of subrule 42.6(3). The pass-through entity's actual income tax returns must be submitted to the department upon request. A taxpayer who is claiming an out-of-state tax credit for entity-level income tax paid by a regulated investment company must submit a statement from the regulated investment company that meets the requirements of subrule 42.6(4).

e. *Additional foreign income tax documentation.* A taxpayer who is claiming the out-of-state tax credit for income taxes paid to a foreign country must provide the department with a copy of federal Form 1116, Foreign Tax Credit, if that form was required to be submitted with the taxpayer's federal

income tax return. This submission requirement does not mean that all amounts on federal Form 1116 qualify for the Iowa out-of-state tax credit. Additionally, if the income tax was paid in foreign currency, the taxpayer shall include a detailed explanation of how the taxpayer figured the conversion rate. The conversion rate is the rate of exchange in effect on the day the taxpayer paid the foreign income tax.

f. Proof of payment. Upon request, the taxpayer must provide the department with a photocopy, or other similar reproduction, of either:

- (1) The receipt issued by the other state or foreign country for payment of the tax, or
- (2) The canceled check (both sides) with which the tax was paid to the other state or foreign country together with a statement of the amount and kind (e.g., wage or salary income, rental income, business income) of total income on which such tax was paid.

This rule is intended to implement Iowa Code section 422.8.

[ARC 6029C, IAB 11/3/21, effective 12/8/21]

701—42.7(422) Out-of-state tax credit for minimum tax.

42.7(1) General rule. Iowa residents are allowed an out-of-state tax credit for minimum taxes or income taxes paid to another state or foreign country on preference items derived from sources outside of Iowa. Part-year residents who pay minimum tax to another state or foreign country on preference items derived from sources outside Iowa will be allowed an out-of-state tax credit only to the extent that the minimum tax paid to the other state or foreign country relates to preference items that occurred during the period the taxpayer was an Iowa resident. Taxpayers who were nonresidents of Iowa for the entire tax year are not eligible for an out-of-state tax credit on their Iowa returns for minimum taxes paid to another state or foreign country on preference items.

If the Iowa resident is a partner, shareholder, member, or beneficiary of a partnership, S corporation, limited liability company, or trust which files a composite income tax return and pays minimum tax in another state on behalf of the partners, shareholders, members or beneficiaries, the out-of-state tax credit will be allowed for the Iowa resident. The Iowa resident must provide a schedule of the resident's share of the minimum tax paid to another state on a composite basis, and the out-of-state tax credit is limited based upon the calculation set forth in subrule 42.7(2).

However, if the partnership, S corporation, limited liability company, or trust is directly subject to minimum tax in another state and the minimum tax is not directly imposed on the resident taxpayer, then the out-of-state tax credit is not allowed for the Iowa resident on the minimum tax directly imposed on the partnership, S corporation, limited liability company, or trust. For example, if another state does not recognize the S corporation election for state tax purposes and a corporation income tax is imposed directly on the S corporation which includes minimum tax, then the out-of-state tax credit is not allowed for the Iowa resident shareholder on the corporation income tax, including minimum tax, paid to the other state.

42.7(2) Limitation of out-of-state tax credit for minimum tax. The limitation on the out-of-state tax credit for minimum tax is that the credit shall not exceed the Iowa minimum tax that would have been computed on the same preference items which were taxed by the other state or foreign country. The limitation may be determined according to the following formula: The total of preference items earned outside of Iowa and taxed by another state or foreign country shall be divided by the total of preference items of the resident taxpayer. This quotient, multiplied by the state minimum tax on the total of preference items as if entirely earned in Iowa, shall be the maximum credit against the Iowa minimum tax. However, if the minimum tax imposed by the other state or foreign country is less than the minimum tax computed under the limitation formula, the out-of-state credit for minimum tax will not exceed the minimum tax imposed by the other state or foreign country.

No out-of-state credit will be allowed on the Iowa return for minimum tax paid to another state or foreign country to the extent that the minimum tax of the other state or foreign country is imposed on items of tax preference not subject to the Iowa minimum tax. In addition, no out-of-state credit will be allowed for minimum tax paid to another state or foreign country of capital gains or losses from distressed sales which are excluded from the Iowa minimum tax. Capital gains or losses from distressed sales are described in rule 701—40.27(422).

42.7(3) *Proof of claim for out-of-state tax credit for minimum tax.* The out-of-state credit for minimum tax may be claimed on the return of a taxpayer if proof of payment of minimum tax to the state or foreign country is included with the return. Documents needed for proof of payment are a photocopy of the minimum tax form of the state or country to which minimum tax was paid as well as instructions from the minimum tax form or other information which specifies how the minimum tax is imposed and what preference items are subject to the minimum tax of that state or foreign country.

In the case of audit by the department of a taxpayer claiming an out-of-state tax credit for minimum tax paid, the department may require additional proof of payment of the out-of-state tax credit. The department will accept any of the following documents as verification of payment of the minimum tax:

a. A photocopy, or other similar reproduction, of either:

(1) The receipt issued by the other state or foreign country for payment of the tax, including the minimum tax, or

(2) The canceled check (both sides) which was used for payment of the minimum tax to the other state or foreign country.

b. A copy of the return filed with the other state or foreign country which has been certified by the tax authority of that state or foreign country and which shows that the income tax, including the minimum tax, has been paid.

This rule is intended to implement Iowa Code section 422.8.

[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.8(422) *Withholding and estimated tax credits.* An employee from whose wages tax is withheld shall claim credit for the tax withheld on the employee's income tax return for the year during which the tax was withheld. Credit will be allowed only if a copy of the withholding statement is attached to the return. Taxpayers who have made estimated income tax payments shall claim credit for the estimated tax paid for the taxable year.

This rule is intended to implement Iowa Code section 422.16.

[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.9(422) *Motor fuel credit.* An individual, partnership, limited liability company, or S corporation may elect to receive an income tax credit in lieu of the motor fuel tax refund provided by Iowa Code chapter 452A. An individual, partnership, limited liability company, or S corporation which holds a motor fuel tax refund permit under Iowa Code section 452A.18 when it makes this election must cancel the permit within 30 days after the first day of the tax year. However, if the refund permit is not canceled within this period, the permit becomes invalid at the time the election to receive an income tax credit is made. The election will continue for subsequent tax years unless a new motor fuel tax refund permit is obtained.

The motor fuel income tax credit must be the amount of Iowa motor fuel tax paid on qualifying fuel purchases as determined by Iowa Code chapter 452A and Iowa Code section 422.110 less any state sales tax as determined by 701—subrule 231.2(2). The credit must be claimed on the tax return covering the tax year in which the motor fuel tax was paid. If the motor fuel credit results in an overpayment of income tax, the overpayment may be refunded or may be credited to income tax due in the subsequent tax year.

The motor fuel tax credits for fuel taxes paid by partnerships, limited liability companies, and S corporations are not claimed on returns filed for the partnerships, limited liability companies, and S corporations. Instead, the pro rata shares of the motor fuel tax credits are allocated to the partners, members, and shareholders in the same ratio as incomes are allocated to the partners, members, and shareholders. A schedule must be attached to the individual's returns showing the distribution of gallons and the amount of credit claimed by each partner, member, or shareholder.

The partnership, limited liability company, or S corporation must attach to its return a schedule showing the allocation to each partner, member, or shareholder of the motor fuel purchased by the partnership, limited liability company, or S corporation which qualifies for the credit.

This rule is intended to implement Iowa Code sections 422.110 and 422.111.

[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.10(422) Alternative minimum tax credit for minimum tax paid in a prior tax year. Minimum tax paid in prior tax years commencing with tax years beginning on or after January 1, 1987, by a taxpayer can be claimed as a tax credit against the taxpayer's regular income tax liability in a subsequent tax year. Therefore, 1988 is the first tax year that the minimum tax credit is available, and the credit is based on the minimum tax paid by the taxpayer for 1987. The minimum tax credit may only be used against regular income tax for a tax year to the extent that the regular tax is greater than the minimum tax for the tax year. If the minimum tax credit is not used against the regular tax for a tax year, the remaining credit is carried over to the following tax year to be applied against the regular income tax liability for that period. The minimum tax credit is computed on Form IA 8801.

42.10(1) Examples of computation of the minimum tax credit and carryover of the credit.

EXAMPLE 1. The taxpayers reported \$5,000 of minimum tax for 2007. For 2008, the taxpayers reported regular tax of \$8,000, and the minimum tax liability is \$6,000. The minimum tax credit is \$2,000 for 2008 because, although the taxpayers had an \$8,000 regular tax liability, the credit is allowed only to the extent that the regular tax exceeds the minimum tax. Since only \$2,000 of the carryover credit from 2007 was used, there is a \$3,000 minimum tax carryover credit to 2009.

EXAMPLE 2. The taxpayers reported \$2,500 of minimum tax for 2007. For 2008, the taxpayers reported regular tax of \$8,000, and the minimum tax liability is \$5,000. The minimum tax credit is \$2,500 for 2008 because, although the regular tax exceeded the minimum tax by \$3,000, the credit is allowed only to the extent of minimum tax paid for prior tax years. There is no minimum tax carryover credit to 2009.

42.10(2) Minimum tax credit for nonresidents and part-year residents. Nonresident and part-year resident taxpayers who paid Iowa minimum tax in tax years beginning on or after January 1, 1987, are eligible for the minimum tax credit to the extent that the minimum tax they paid was attributable to tax preferences and adjustments. Therefore, if a nonresident or part-year resident taxpayer had Iowa source tax preferences or adjustments, then all the minimum tax that was paid would qualify for the minimum tax credit.

The minimum tax credit for a tax year as computed above applies to the regular income tax liability less the nonresident part-year credit to the extent this regular tax amount exceeds the minimum tax for the tax year. To the extent the credit is not used, the credit can be carried over to the next tax year.

This rule is intended to implement Iowa Code section 422.11B.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 2829C, IAB 11/23/16, effective 1/1/17]

701—42.11(15,422) Research activities credit. The taxes imposed on individual income shall be reduced by a state tax credit for increasing research activities in this state. For individual income tax, the requirements of the research activities credit are described in Iowa Code section 422.10. This rule explains terms not defined in the statute and procedures for claiming the credit.

42.11(1) Definitions.

“Accountant” means a person authorized under Iowa Code chapter 542 to engage in the practice of public accounting in Iowa as defined in Iowa Code section 542.3(23) or authorized to engage in such practice in another state under a similar law of another state.

“Architect” means a person licensed under Iowa Code chapter 544A or a similar law of another state.

“Aviation and aerospace” means the design, development or production of aircraft, rockets, missiles, spacecraft and other machinery and equipment that operate in aerospace.

“Collection agency” means a person primarily engaged in the business of collecting debt, including but not limited to consumer debt collection subject to the provisions of the federal Fair Debt Collections Practices Act in 15 U.S.C. §1692 et seq., the Iowa debt collection practices Act in Iowa Code sections 537.7101 through 537.7103, or other similar state law.

“Finance or investment company” means a person primarily engaged in finance or investment activities broadly consisting of the holding, depositing, or management of a customer's money or assets for investment purposes, or the provision of loans or other similar financing or credit to customers. “Finance or investment company” includes but is not limited to a person organized or licensed under

Iowa Code chapter 524, 533, or 533D or other similar state or federal law, or an investment company as defined in 15 U.S.C. §80a-3.

“Life sciences” means the sciences concerned with the study of living organisms, including agriscience, biology, botany, zoology, microbiology, physiology, biochemistry, and related subjects.

“Manufacturing” means the same as defined in 2018 Iowa Acts, Senate File 2417, section 183.

“Publisher” means a person whose primary business is the publishing of books, periodicals, newspapers, music, or other works for sale in any format.

“Real estate company” means a person licensed under Iowa Code chapter 543B or otherwise primarily engaged in acts constituting dealing in real estate as described in Iowa Code section 543B.6.

“Retailer” means a person that primarily engages in sales of personal property as defined in 2018 Iowa Acts, Senate File 2417, section 158, or services directly to an ultimate consumer. A business that primarily makes sales for resale is not a retailer.

“Software engineering” means the detailed study of the design, development, operation, and maintenance of software.

“Transportation company” means a person whose primary business is the transportation of persons or property from one place to another.

“Wholesaler” means a person that primarily engages in buying large quantities of goods and reselling them in smaller quantities to retailers or other merchants who in turn sell those goods to the ultimate consumer.

42.11(2) Requirement that the business claim and be allowed the federal credit. To claim this credit, a taxpayer’s business must claim and be allowed a research credit for such qualified research expenses under Section 41 of the Internal Revenue Code for the same taxable year as the taxpayer’s business is claiming the credit.

a. Being “allowed” the federal credit. For purposes of this subrule, a federal credit is “allowed” if the taxpayer meets all requirements to claim the credit under Section 41 of the Internal Revenue Code and any applicable federal regulation and Internal Revenue Service guidance and such credit has not been disallowed by the Internal Revenue Service.

b. Applicability of requirement to pass-throughs. If the individual received the Iowa credit through a pass-through entity, the pass-through entity that conducted the research must have claimed and been allowed the federal credit in order for the individual to claim the Iowa credit.

c. Impact of federal audit. If the Internal Revenue Service audits or otherwise reviews the return and disallows the credit, the taxpayer shall file an amended Iowa return along with supporting schedules, including an amended federal return or a copy of the federal revenue agent’s report and notification of final federal adjustments, to add back the Iowa credit to the extent not previously disallowed by the department.

d. Authority of the department. Nothing in this subrule shall limit the department’s authority to review, examine, audit, or otherwise challenge an Iowa tax credit claim under Iowa Code section 422.10, regardless of inaction, a settlement, or a determination by the Internal Revenue Service under Section 41 of the Internal Revenue Code.

42.11(3) Calculating the credit. For information on how the credit is calculated, see Iowa Code section 422.10.

42.11(4) Claiming the tax credit.

a. Forms. The credit must be claimed on the forms provided on the department’s website and must include all information required by the forms.

b. Allocation to the individual owners of an entity or beneficiaries of an estate or trust. An individual may claim a research activities credit incurred by a partnership, S corporation, limited liability company, estate, or trust electing to have the income of the business entity taxed to the individual. The amount claimed by an individual from the business entity shall be based upon the pro rata share of the individual’s earnings from a partnership, S corporation, estate or trust.

c. Refundability. Any research credit in excess of the individual’s tax liability, less the nonrefundable credits authorized in Iowa Code chapter 422, division II, may be refunded to the individual or may be credited to the individual’s tax liability for the following tax year.

d. Transferability. Tax credit certificates shall not be transferred to any other person.

e. Enterprise zone claimants. The enterprise zone program was repealed on July 1, 2014. However, any supplemental research activities credit earned by businesses pursuant to Iowa Code section 15.335 and approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014.

This rule is intended to implement Iowa Code sections 15.335 and 422.10 as amended by 2018 Iowa Acts, Senate File 2417.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9104B, IAB 9/22/10, effective 10/27/10; ARC 9820B, IAB 11/2/11, effective 12/7/11; ARC 0337C, IAB 9/19/12, effective 10/24/12; ARC 1101C, IAB 10/16/13, effective 11/20/13; ARC 1545C, IAB 7/23/14, effective 8/27/14; ARC 1744C, IAB 11/26/14, effective 12/31/14; ARC 4143C, IAB 11/21/18, effective 12/26/18]

701—42.12(422) New jobs credit. A tax credit is available to an individual who has entered into an agreement under Iowa Code chapter 260E and has increased employment by at least 10 percent.

42.12(1) Definitions.

a. The term “new jobs” means those jobs directly resulting from a project covered by an agreement authorized by Iowa Code chapter 260E (Iowa industrial new jobs training Act) but does not include jobs of recalled workers or replacement jobs or other jobs that formerly existed in the industry in this state.

b. The term “jobs directly related to new jobs” means those jobs which directly support the new jobs but do not include in-state employees transferred to a position which would be considered to be a job directly related to new jobs unless the transferred employee’s vacant position is filled by a new employee. The burden of proof that a job is directly related to new jobs is on the taxpayer.

EXAMPLE A. A taxpayer who has entered into a chapter 260E agreement to train new employees for a new product line, transfers an in-state employee to be foreman of the new product line but does not fill the transferred employee’s position. The new foreman’s position would not be considered a job directly related to new jobs even though it directly supports the new jobs because the transferred employee’s old position was not refilled.

EXAMPLE B. A taxpayer who has entered into a chapter 260E agreement to train new employees for a new product line transfers an in-state employee to be foreman of the new product line and fills the transferred employee’s position with a new employee. The new foreman’s position would be considered a job directly related to new jobs because it directly supports the new jobs and the transferred employee’s old position was filled by a new employee.

c. The term “taxable wages” means those wages upon which an employer is required to contribute to the state unemployment fund as defined in Iowa Code subsection 96.19(37) for the year in which the taxpayer elects to take the new jobs tax credit. For fiscal year taxpayers, “taxable wages” shall not be greater than the maximum wage upon which an employer is required to contribute to the state unemployment fund for the calendar year in which the taxpayer’s fiscal year begins.

d. The term “agreement” means an agreement entered into under Iowa Code chapter 260E after July 1, 1985, an amendment to that agreement, or an amendment to an agreement entered into before July 1, 1985, if the amendment sets forth the base employment level as of the date of the amendment. The term “agreement” also includes a preliminary agreement entered into under Iowa Code chapter 260E provided the preliminary agreement contains all the elements of a contract and includes the necessary elements and commitments relating to training programs and new jobs.

e. The term “base employment level” means the number of full-time jobs an industry employs at a plant site which is covered by an agreement under Iowa Code chapter 260E on the date of the agreement.

f. The term “project” means a training arrangement which is the subject of an agreement entered into under Iowa Code chapter 260E.

g. The term “industry” means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health, and professional services. “Industry” does not include a business which closes or substantially reduces its operations in one area of the state and relocates substantially the same operation in another area of the state. “Industry” is a business engaged in the above-listed activities rather than the generic definition encompassing all businesses in the state engaged in the same activities. For example, in the meat-packing business,

an industry is considered to be a single corporate entity or operating division, rather than the entire meat-packing business in the state.

h. The term “new employees” means the same as new jobs or jobs directly related to new jobs.

i. The term “full-time job” means any of the following:

(1) An employment position requiring an average work week of 35 or more hours;

(2) An employment position for which compensation is paid on a salaried full-time basis without regard to hours worked; or

(3) An aggregation of any number of part-time or job-sharing employment positions which equal one full-time employment position. For purposes of this subrule, each part-time or job-sharing employment position shall be categorized with regard to the average number of hours worked each week as one-quarter, half, three-quarters, or full-time position, as set forth in the following table:

Average Number of Weekly Hours	Category
More than 0 but less than 15	$\frac{1}{4}$
15 or more but less than 25	$\frac{1}{2}$
25 or more but less than 35	$\frac{3}{4}$
35 or more	1 (full-time)

42.12(2) *How to compute the credit.* The credit is 6 percent of the taxable wages paid to employees in new jobs or jobs directly related to new jobs for the taxable year in which the taxpayer elects to take the credit.

EXAMPLE 1. A taxpayer enters into an agreement to increase employment by 20 new employees which is greater than 10 percent of the taxpayer’s base employment level of 100 employees. In year one of the agreement, the taxpayer hires 20 new employees but elects not to take the credit in that year. In year two of the agreement, only 18 of the new employees hired in year one are still employed and the taxpayer elects to take the credit. The credit would be 6 percent of the taxable wages of the 18 remaining new employees. In year three of the agreement, the taxpayer hires two additional new employees under the agreement to replace the two employees that left in year two and elects to take the credit. The credit would be 6 percent of the taxable wages paid to the two replacement employees. In year four of the agreement, three of the employees for which a credit had been taken left employment and three additional employees were hired. No credit is available for these employees. A credit can only be taken one time for each new job or job directly related to a new job.

EXAMPLE 2. A taxpayer operating two plants in Iowa enters into a chapter 260E agreement to train new employees for a new product line at one of the taxpayer’s plants. The base employment level on the date of the agreement at plant A is 300 and at plant B is 100. Under the agreement, 20 new employees will be trained for plant B which is greater than a 10 percent increase of the base employment level for plant B. In the year in which the taxpayer elects to take the credit, the employment level at plant A is 290 and at plant B is 120. The credit would be 6 percent of the wages of 10 new employees at plant B as 10 new jobs were created by the industry in the state. A credit for the remaining 10 employees can be taken if the employment level at plant A increases back to 300 during the period of time that the credit can be taken.

42.12(3) *When the credit can be taken.* The taxpayer may elect to take the credit in any tax year which either begins or ends during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. However, the taxpayer may not take the credit until the base employment level has been exceeded by at least 10 percent.

EXAMPLE: A taxpayer enters into an agreement to increase employment from a base employment level of 200 employees to 225 employees. In year one of the agreement, the taxpayer hires 20 new employees which is a 10 percent increase over the base employment level but elects not to take the credit. In year two of the agreement, two of the new employees leave employment. The taxpayer elects to take the credit which would be 6 percent of the taxable wages of the 18 employees currently employed. In year three, the taxpayer hires 7 new employees and elects to take the credit. The credit would be 6 percent of the taxable wages of the 7 new employees.

A taxpayer may claim on the taxpayer's individual income tax return the pro rata share of the Iowa new jobs credit from a partnership, subchapter S corporation, estate or trust. The portion of the credit claimed by the individual shall be in the same ratio as the individual's pro rata share of the earnings of the partnership, subchapter S corporation, or estate or trust. All partners in a partnership, shareholders in a subchapter S corporation and beneficiaries in an estate or trust shall elect to take the Iowa new jobs credit the same year.

For tax years beginning prior to January 1, 2007, any Iowa new jobs credit in excess of the individual's tax liability less the credits authorized in Iowa Code sections 422.12 and 422.12B may be carried forward for ten years or until it is used, whichever is the earlier. For tax years beginning on or after January 1, 2007, any Iowa new jobs credit in excess of the individual's tax liability less the credits authorized in Iowa Code section 422.12 may be carried forward for ten years or until it is used, whichever is the earlier.

This rule is intended to implement Iowa Code section 422.11A.
[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.13(422) Earned income credit.

42.13(1) *Tax years beginning before January 1, 2007.* Effective for tax years beginning on or after January 1, 1990, an individual is allowed an Iowa earned income credit equal to a percentage of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. The Iowa earned income credit is nonrefundable; therefore, the credit may not exceed the remaining income tax liability of the taxpayer after the personal exemption credits and the other nonrefundable credits are deducted. The percentage of the earned income credit for tax years beginning in the 1990 calendar year is 5 percent. The percentage of the earned income credit for tax years beginning on or after January 1, 1991, is 6.5 percent.

For federal income tax purposes, the earned income credit is available for a low-income worker who maintains a household in the United States that is the principal place of abode of the worker and a child or children for more than one-half of the tax year or the worker must have provided a home for the entire tax year for a dependent parent. In addition, the worker must be (1) a married person who files a joint return and is entitled to a dependency exemption for a son or daughter, adopted child or stepchild; (2) a surviving spouse; or (3) an individual who qualifies as a head of household as described in Section 2(b) of the Internal Revenue Code. The federal earned income credit for a taxpayer is determined by computing the taxpayer's earned income on a worksheet provided in the federal income tax return instructions and determining the allowable credit from a table included in the instructions for the 1040 or 1040A. For purposes of the credit, a taxpayer's earned income includes wages, salaries, tips, or other compensation plus net income from self-employment.

In the case of married taxpayers who filed a joint federal return and who elected to file separate state returns or separately on the combined return form, the Iowa earned income credit is allocated between the spouses in the ratio that each spouse's earned income relates to the earned income of both spouses.

Nonresidents and part-year residents of Iowa are allowed the same earned income credits as resident taxpayers.

42.13(2) *Tax years beginning on or after January 1, 2007.* Effective for tax years beginning on or after January 1, 2007, but beginning before January 1, 2013, an individual is allowed an Iowa earned income credit equal to 7 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. For tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, an individual is allowed an Iowa earned income tax credit equal to 14 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. For tax years beginning on or after January 1, 2014, an individual is allowed an Iowa earned income tax credit equal to 15 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. The Iowa earned income credit is refundable; therefore, the credit may exceed the remaining

income tax liability of the taxpayer after the personal exemption credits and other nonrefundable credits are deducted.

In the case of married taxpayers who filed a joint federal return and who elected to file separate state returns or separately on the combined return form, the Iowa earned income credit is allocated between the spouses in the ratio that each spouse's earned income relates to the earned income of both spouses.

Nonresidents or part-year residents of Iowa must determine the Iowa earned income tax credit in the ratio of their Iowa source net income to their total source net income. In addition, if nonresidents or part-year residents of Iowa are married and elect to file separate returns or separately on the combined return form, the Iowa earned income credit must be allocated between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income.

EXAMPLE: A married couple lives in Omaha, Nebraska. One spouse worked in Iowa in 2007 and had wages and other income from Iowa sources of \$12,000. That spouse had a federal adjusted gross income from all sources of \$15,000. The other spouse had no Iowa source net income and had a federal adjusted gross income from all sources of \$10,000. The taxpayers had a federal earned income credit of \$2,800.

The federal earned income credit of \$2,800 multiplied by 7 percent equals \$196. The ratio of Iowa source net income of \$12,000 divided by total source net income of \$25,000 equals 48 percent. The Iowa earned income tax credit equals \$196 multiplied by 48 percent, or \$94.

This rule is intended to implement Iowa Code section 422.12B as amended by 2013 Iowa Acts, Senate File 295.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 1102C, IAB 10/16/13, effective 11/20/13]

701—42.14(15) Investment tax credit—new jobs and income program and enterprise zone program.

42.14(1) General rule. An investment tax credit of up to 10 percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business is available for businesses approved by the economic development authority under the new jobs and income program and the enterprise zone program. The new jobs and income program was repealed on July 1, 2005, and has been replaced with the high quality job creation program. See rule 701—42.29(15) for information on the investment tax credit under the high quality job creation program. Any investment tax credit earned by businesses approved under the new jobs and income program prior to July 1, 2005, remains valid and can be claimed on tax returns filed after July 1, 2005. The credit is available for machinery and equipment or improvements to real property placed in service after May 1, 1994. The credit shall be taken in the year the qualifying asset is placed in service. The enterprise zone program was repealed on July 1, 2014. Any investment tax credit earned by businesses approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014. For business applications received by the economic development authority on or after July 1, 1999, purchases of real property made in conjunction with the location or expansion of an eligible business, the cost of land and any buildings and structures located on the land will be considered to be new investment which is directly related to new jobs for purposes of determining the amount of new investment upon which an investment tax credit may be taken. For projects approved on or after July 1, 2005, under the enterprise zone program, the investment tax credit will be amortized over a five-year period, as described in subrule 42.29(2).

For eligible businesses approved by the Iowa department of economic development on or after March 17, 2004, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of ten years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer's cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

Any credit in excess of the tax liability for the tax year may be carried forward seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by the individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

42.14(2) *Investment tax credit—value-added agricultural products or biotechnology-related processes.* For tax years beginning on or after July 1, 2001, an eligible business whose project primarily involves the production of value-added agricultural products may elect to receive a refund for all or a portion of an unused investment tax credit. For tax years beginning on or after July 1, 2001, but before July 1, 2003, an eligible business includes a cooperative described in Section 521 of the Internal Revenue Code which is not required to file an Iowa corporation income tax return and whose project primarily involves the production of ethanol. For tax years beginning on or after July 1, 2003, an eligible business includes a cooperative described in Section 521 of the Internal Revenue Code which is not required to file an Iowa corporation income tax return. For tax years ending on or after July 1, 2005, an eligible business approved under the enterprise zone program whose project primarily involves biotechnology-related processes may elect to receive a refund for all or a portion of an unused investment tax credit.

Eligible businesses shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development will not issue tax credit certificates for more than \$4 million during a fiscal year for this program and eligible businesses described in subrule 42.29(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

The economic development authority will issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return and whose project primarily involves the production of ethanol for tax years beginning on or after January 1, 2002, or for a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return for tax years beginning on or after July 1, 2003.

For value-added agricultural projects, for a cooperative that is not required to file an Iowa income tax return because it is exempt from federal income tax, the cooperative must submit a list of its members and the share of each member's interest in the cooperative. The Iowa department of economic development will issue a tax credit certificate to each member on the list.

See 701—subrule 52.10(4) for examples illustrating how this subrule is applied.

For tax years beginning on or after January 1, 2002, but before July 1, 2003, a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return and whose project primarily involves the production of ethanol may elect to transfer all or a portion of its tax credit to its members. For tax years beginning on or after July 1, 2003, a cooperative described in Section 521 of the Internal Revenue Code which is required to file an Iowa corporation income tax return may elect to transfer all or a portion of its tax credit to its members. The amount of tax credit transferred and claimed by a member shall be based upon the pro rata share of the member's earnings in the cooperative. The economic development authority will issue a tax credit certificate to each member of the cooperative to whom the credit was transferred provided that tax credit certificates which total no more than \$4 million are issued during a fiscal year. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed.

42.14(3) Repayment of credits. If an eligible business fails to maintain the requirements of the new jobs and income program or the enterprise zone program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of the new jobs and income program or the enterprise zone program because this repayment is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.*, Docket No. 11DORF 042-044, June 11, 2012.

If the eligible business, within five years of purchase, sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which a tax credit was claimed under this rule, the income tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

- a.* One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.
- b.* Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.
- c.* Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.
- d.* Forty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.
- e.* Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

This rule is intended to implement Iowa Code section 15.333 as amended by 2010 Iowa Acts, Senate File 2380.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 1744C**, IAB 11/26/14, effective 12/31/14]

701—42.15(422) Child and dependent care credit. There is a child and dependent care credit which is refundable to the extent the amount of the credit exceeds the taxpayer's income tax liability less other applicable income tax credits. If a taxpayer claims the child and dependent care credit, the taxpayer cannot claim the early childhood development credit described in rule 701—42.31(422).

42.15(1) Computation of the Iowa child and dependent care credit. The Iowa child and dependent care credit is computed as a percentage of the child and dependent care credit which is allowed for federal income tax purposes under Section 21 of the Internal Revenue Code. For tax years beginning on or after January 1, 2015, the Iowa credit is computed without regard to whether or not the federal credit was limited to the taxpayer's federal tax liability. In addition, for tax years beginning on or after January 1, 2015, the Iowa credit will be allowed even if the taxpayer's federal adjusted gross income is below \$0. The credit is computed so that taxpayers with lower net incomes are allowed higher percentages of their federal child care credit than taxpayers with higher net incomes. The following is a schedule showing the percentages of federal child and dependent care credits allowed on the taxpayers' Iowa returns on the basis of the net incomes of the taxpayers.

* Net income	Percentage of federal credit allowed for tax years beginning on or after January 1, 2006, and before January 1, 2021	Percentage of federal credit allowed for tax years beginning on or after January 1, 2021
Less than \$10,000	75%	75%
\$10,000 or more but less than \$20,000	65%	65%
\$20,000 or more but less than \$25,000	55%	55%
\$25,000 or more but less than \$35,000	50%	50%
\$35,000 or more but less than \$40,000	40%	40%
\$40,000 or more but less than \$45,000	30%	30%
\$45,000 or more but less than \$90,000	No Credit	30%
\$90,000 or more	No Credit	No Credit

*Note that in the case of married taxpayers who have filed joint federal returns and elect to file separate returns or to file separately on the combined return form for Iowa purposes, the taxpayers must determine the child and dependent care credit by the schedule provided in this rule on the basis of their combined net incomes. The credit determined from the schedule must be allocated between the married taxpayers in the proportion that each spouse's net income relates to the combined net income of the taxpayers.

42.15(2) Examples of computation of the Iowa child and dependent care credit. The following are examples of computation of the child and dependent care credit and the allocation of the credit between spouses in situations where married taxpayers have filed joint federal returns and are filing separate Iowa returns or are filing separately on the combined Iowa return form.

EXAMPLE A: A married couple has a combined net income of \$40,000. Both spouses were employed. They had a federal child and dependent care credit of \$600 which related to expenses incurred for care of their two small children. One of the spouses had a net income of \$30,000 and the second spouse had a net income of \$10,000.

The taxpayers' Iowa child and dependent care credit was \$180 since they were entitled to an Iowa child and dependent care credit of 30 percent of their federal credit of \$600. If the taxpayers elect to file separate Iowa returns, the \$180 credit would be allocated between the spouses on the basis of each spouse's net income as it relates to the combined net income of both spouses as shown below:

$$\begin{aligned} \$180 \times \frac{\$30,000}{\$40,000} &= \$135 && \text{child and dependent care credit for spouse} \\ &&& \text{with \$30,000 net income} \\ \\ \$180 \times \frac{\$10,000}{\$40,000} &= \$45 && \text{child and dependent care credit for spouse} \\ &&& \text{with \$10,000 net income} \end{aligned}$$

EXAMPLE B: A married couple filed their Iowa return separately on a combined return. Both spouses were employed. They had a federal child and dependent care credit of \$800 which related to expenses incurred for care of their children. One spouse had a net income of \$25,000 and the other spouse had a net income of \$12,500, so their combined net income was \$37,500.

The taxpayers' Iowa child and dependent care credit was \$320, since they were entitled to an Iowa credit of 40 percent of their federal credit of \$800. The \$320 credit is allocated between the spouses on the basis of each spouse's Iowa net income as it relates to the combined Iowa net income of both spouses as shown below:

$$\$320 \times \frac{\$25,000}{\$37,500} = \$213 \quad \text{child and dependent care credit for spouse with \$25,000 Iowa net income}$$

$$\$320 \times \frac{\$12,500}{\$37,500} = \$107 \quad \text{child and dependent care credit for spouse with \$12,500 Iowa net income}$$

42.15(3) *Computation of the Iowa child and dependent care credit for nonresidents and part-year residents.* Nonresidents and part-year residents who have income from Iowa sources in the tax year may claim child and dependent care credits on their Iowa returns. The percentage of the federal credit allowed is determined based on the nonresident or part-year resident's all-source net income. If the nonresident or part-year resident's all-source net income is \$90,000 or higher, the taxpayer will not qualify for the Iowa child and dependent care credit regardless of the amount of the taxpayer's Iowa-source income. To compute the amount of child and dependent care credit that can be claimed on the Iowa return by a nonresident or part-year resident, the following formula shall be used:

Federal child and dependent care credit		Percentage of federal child and dependent credit allowed on Iowa return from table in subrule 42.15(1) based on all-source net income		*Iowa net income
	×		×	All-source net income

*Iowa net income for purposes of determining the child care credit that can be claimed on the Iowa return by a nonresident or part-year resident taxpayer is the total Iowa-source income less the Iowa-source adjustments to income as computed on the Schedule IA 126.

In cases where married taxpayers are nonresidents or part-year residents of Iowa and are filing separate Iowa returns or are filing separately on the combined Iowa return form, the child and dependent care credit allowable on the Iowa return should be allocated between the spouses in the ratio of the Iowa net income of each spouse to the combined Iowa net income of the taxpayers.

42.15(4) *Example of computation of the Iowa child and dependent care credit for nonresidents and part-year residents.* The following is an example of the computation of the Iowa child and dependent care credit for nonresidents and part-year residents.

A married couple lives in Omaha, Nebraska. One of the spouses worked in Iowa and had an Iowa-source net income of \$15,000. That spouse had an all-source net income of \$20,000. The second spouse had an Iowa-source net income of \$10,000 and an all-source net income of \$15,000. The couple had a combined Iowa-source net income of \$25,000 and a combined all-source net income of \$35,000. The taxpayers had a federal child and dependent care credit of \$800 which related to expenses incurred for the care of their two young children. The taxpayers' Iowa child and dependent care credit is calculated below:

Federal child and dependent care credit		Percentage of federal child and dependent credit allowed on Iowa return		Iowa-source net income		All-source net income
	×		×			
\$800	×	40%	=	\$320	×	$\frac{\$25,000}{\$35,000}$
						= \$229

The \$229 credit is allocated between the spouses as shown below:

$$\$229 \times \frac{\$15,000}{\$25,000} = \$137 \text{ for spouse with Iowa-source net income of } \$15,000$$

$$\$229 \times \frac{\$10,000}{\$25,000} = \$92 \text{ for spouse with Iowa-source net income of } \$10,000$$

This rule is intended to implement Iowa Code section 422.12C.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 0337C, IAB 9/19/12, effective 10/24/12; ARC 1665C, IAB 10/15/14, effective 11/19/14; ARC 6149C, IAB 1/12/22, effective 2/16/22]

701—42.16(422) Franchise tax credit. For tax years beginning on or after January 1, 1997, a shareholder in a financial institution, as defined in Section 581 of the Internal Revenue Code, which has elected to have its income taxed directly to the shareholders may take a tax credit equal to the shareholder's pro rata share of the Iowa franchise tax paid by the financial institution.

For tax years beginning on or after July 1, 2004, a member of a financial institution organized as a limited liability company that is taxed as a partnership for federal income tax purposes which has elected to have its income taxed directly to its members may take a tax credit equal to the member's pro rata share of the Iowa franchise tax paid by the financial institution.

The credit must be computed by recomputing the amount of tax computed under Iowa Code section 422.5 by reducing the shareholder's or member's taxable income by the shareholder's or member's pro rata share of the items of income and expenses of the financial institution and subtracting the credits allowed in Iowa Code sections 422.12 and 422.12B for tax years beginning prior to January 1, 2007. The recomputed tax must be subtracted from the amount of tax computed under Iowa Code section 422.5 reduced by the credits allowed in Iowa Code sections 422.12 and 422.12B for tax years beginning prior to January 1, 2007. For tax years beginning on or after January 1, 2007, only the credits allowed in Iowa Code section 422.12 are reduced in computing the franchise tax credit.

The resulting amount, not to exceed the shareholder's or member's pro rata share of the franchise tax paid by the financial institution, is the amount of tax credit allowed the shareholder or member.

This rule is intended to implement Iowa Code section 422.11.

[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.17(15E) Eligible housing business tax credit. An individual who qualifies as an eligible housing business may receive a tax credit of up to 10 percent of the new investment which is directly related to the building or rehabilitating of homes in an enterprise zone. The enterprise zone program was repealed on July 1, 2014, and the eligible housing business tax credit has been replaced with the workforce housing tax incentives program. See rule 701—42.53(15) for information on the tax incentives provided under the workforce housing tax incentives program. Any investment tax credit earned by businesses approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014. The tax credit may be taken on the tax return for the tax year in which the home is ready for occupancy.

An eligible housing business is one which meets the criteria in 2014 Iowa Code section 15E.193B.

42.17(1) Computation of credit. New investment which is directly related to the building or rehabilitating of homes includes but is not limited to the following costs: land, surveying, architectural services, building permits, inspections, interest on a construction loan, building materials, roofing, plumbing materials, electrical materials, amounts paid to subcontractors for labor and materials provided, concrete, labor, landscaping, appliances normally provided with a new home, heating and cooling equipment, millwork, drywall and drywall materials, nails, bolts, screws, and floor coverings.

New investment does not include the machinery, equipment, or hand or power tools necessary to build or rehabilitate homes.

A taxpayer may claim on the taxpayer's individual income tax return the pro rata share of the Iowa eligible housing business tax credit from a partnership, S corporation, limited liability company, estate, or trust. The portion of the credit claimed by the individual shall be in the same ratio as the individual's pro rata share of the earnings of the partnership, S corporation, limited liability company, or estate or trust, except for projects beginning on or after July 1, 2005, which used low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the housing development. For these projects, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder.

For tax years beginning prior to January 1, 2007, any Iowa eligible housing business tax credit in excess of the individual's tax liability, less the credits authorized in Iowa Code sections 422.12 and 422.12B, may be carried forward for seven years or until it is used, whichever is the earlier. For tax years beginning on or after January 1, 2007, any Iowa eligible housing business tax credit in excess of the individual's tax liability less the credits authorized in Iowa Code section 422.12 may be carried forward for seven years or until it is used, whichever is the earlier.

If the eligible housing business fails to maintain the requirements of 2014 Iowa Code section 15E.193B, the taxpayer, in order to be an eligible housing business, may be required to repay all or a part of the tax incentives the taxpayer received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of 2014 Iowa Code section 15E.193B. This repayment is required because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.*, Docket No. 11DORF 042-044, June 11, 2012.

Prior to January 1, 2001, the tax credit cannot exceed 10 percent of \$120,000 for each home or individual unit in a multiple dwelling unit building. Effective January 1, 2001, the tax credit cannot exceed 10 percent of \$140,000 for each home or individual unit in a multiple dwelling unit building.

Effective for tax periods beginning on or after January 1, 2003, the taxpayer must receive a tax credit certificate from the economic development authority to claim the eligible housing business tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.17(2). The tax credit certificate must be included with the income tax return for the tax period in which the home is ready for occupancy. The administrative rules for the eligible housing business tax credit for the economic development authority may be found under 261—Chapter 59.

42.17(2) *Transfer of the eligible housing business tax credit.* For tax periods beginning on or after January 1, 2003, the eligible housing business tax credit certificates may be transferred to any person or entity if low-income housing tax credits authorized under Section 42 of the Internal Revenue Code are used to assist in the financing of the housing development. In addition, the eligible housing business tax credit certificates may be transferred to any person or entity for projects beginning on or after July 1, 2005, if the housing development is located in a brownfield site as defined in Iowa Code section 15.291, or if the housing development is located in a blighted area as defined in Iowa Code section 403.17. No more than \$3 million of tax credits for housing developments located in brownfield sites or blighted areas may be transferred in a calendar year, with no more than \$1.5 million being transferred for any one eligible housing business in a calendar year.

The excess of the \$3 million limitation of tax credits eligible for transfer in the 2013 and 2014 calendar years for housing developments located in brownfield sites or blighted areas cannot be claimed

by a transferee prior to January 1, 2016. The eligible housing business must have notified the economic development authority in writing before July 1, 2014, of the business's intent to transfer any tax credits for housing developments located in brownfield sites or blighted areas. If a tax credit certificate is issued by the economic development authority for a housing development approved prior to July 1, 2014, that is located in a brownfield site or blighted area, the tax credit can still be claimed by the eligible business, but the tax credit cannot be transferred by the eligible business if the economic development authority was not notified prior to July 1, 2014.

EXAMPLE 1: A housing development located in a brownfield site was completed in December 2013 and was issued a tax credit certificate totaling \$250,000. The \$3 million calendar cap for transferred tax credits for brownfield sites and blighted areas has already been reached for the 2013 and 2014 tax years. The \$250,000 tax credit is going to be transferred to Bill Smith, and the economic development authority was notified of the transfer prior to July 1, 2014. Once a replacement tax credit certificate has been issued, Mr. Smith cannot file an amended Iowa individual income tax return for the 2013 tax year until January 1, 2016, to claim the \$250,000 tax credit.

EXAMPLE 2: A housing development located in a blighted area was completed in May 2014 and was issued a tax credit certificate totaling \$150,000. The \$3 million calendar cap for transferred tax credits for brownfield sites and blighted areas has already been reached for the 2014 tax year. The \$150,000 tax credit is going to be transferred to Greg Rogers, and the economic development authority was notified of the transfer prior to July 1, 2014. Once a replacement tax credit certificate has been issued, Mr. Rogers cannot file an amended Iowa individual income tax return for the 2014 tax year until January 1, 2016, to claim the \$150,000 tax credit.

Within 90 days of transfer of the tax credit certificate for transfers prior to July 1, 2006, the transferee must submit the transferred tax credit certificate to the economic development authority, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. For transfers on or after July 1, 2006, the transferee must submit the transferred tax credit certificate to the department of revenue. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee for transfers prior to July 1, 2006, the economic development authority will issue a replacement tax credit certificate to the transferee. For transfers on or after July 1, 2006, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the housing business tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The replacement tax credit certificate must contain the same information that was on the original certificate and must have the same expiration date as the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax period for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credits shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement 2014 Iowa Code section 15E.193B.
[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.18(422) Assistive device tax credit. Effective for tax years beginning on or after January 1, 2000, a taxpayer that is a small business that purchases, rents, or modifies an assistive device or makes workplace modifications for an individual with a disability who is employed or will be employed by the taxpayer may qualify for an assistive device tax credit, subject to the availability of the credit. The assistive device credit is equal to 50 percent of the first \$5,000 paid during the tax year by the small business for the purchase, rental, or modification of an assistive device or for making workplace modifications. Any credit in excess of the tax liability may be refunded or applied to the taxpayer's tax liability for the following tax year. If the taxpayer elects to take the assistive device tax credit, the taxpayer shall not deduct for Iowa income tax purposes any amount of the cost of an assistive device or

workplace modification that is deductible for federal income tax purposes. A small business will not be eligible for the assistive device credit if the device is provided for an owner of the small business unless the owner is a bona fide employee of the small business.

42.18(1) *Submitting applications for the credit.* A small business that wishes to receive the assistive device tax credit must submit an application for the credit to the Iowa department of economic development and provide other information and documents requested by the Iowa department of economic development. If the taxpayer meets the criteria for qualification for the credit, the Iowa department of economic development will issue the taxpayer a certificate of entitlement for the credit. However, the aggregate amount of assistive device tax credits that may be granted by the Iowa department of economic development to all small businesses during a fiscal year cannot exceed \$500,000. The certificate of entitlement for the assistive device credit shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the estimated amount of the tax credit, the date on which the taxpayer's application was approved, the date when it is anticipated that the assistive device project will be completed and a space on the application where the taxpayer shall enter the date that the assistive device project was completed. The certificate of entitlement will not be considered to be valid for purposes of claiming the assistive device credit on the taxpayer's Iowa income tax return until the taxpayer has completed the assistive device project and has entered the completion date on the certificate of entitlement form. The tax year of the small business in which the assistive device project is completed is the tax year for which the assistive device credit may be claimed. For example, in a case where taxpayer A received a certificate of entitlement for an assistive device credit on September 15, 2007, and completed the assistive device workplace modification project on January 15, 2008, taxpayer A could claim the assistive device credit on taxpayer A's 2008 Iowa return, assuming that taxpayer A is filing returns on a calendar-year basis.

The department of revenue will not allow the assistive device credit on a taxpayer's return if the certificate of entitlement or a legible copy of the certificate is not included with the taxpayer's income tax return. If the taxpayer has been granted a certificate of entitlement and the taxpayer is a partnership, limited liability company, S corporation, estate, or trust, where the income of the taxpayer is taxed to the individual owner(s) of the business entity, the taxpayer must provide a copy of the certificate to each of the owners with a statement showing how the credit is to be allocated among the individual owners of the business entity. An individual owner shall include a copy of the certificate of entitlement and the statement of allocation of the assistive device credit with the individual's state income tax return.

42.18(2) *Definitions.* The following definitions are applicable to this rule:

"Assistive device" means any item, piece of equipment, or product system which is used to increase, maintain, or improve the functional capabilities of an individual with a disability in the workplace or on the job. "Assistive device" does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. "Assistive device" does not include any device for which a certificate of title is issued by the state department of transportation, but does include any item, piece of equipment, or product system otherwise meeting the definition of "assistive device" that is incorporated, attached, or included as a modification in or to such a device issued a certificate of title.

"Business entity" means partnership, limited liability company, S corporation, estate, or trust, where the income of the business is taxed to each of the individual owners of the business, whether the individual owner is a partner, member, shareholder, or beneficiary.

"Disability" means the same as defined in Iowa Code section 15.102. Therefore, "disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual. "Disability" does not include any of the following:

1. Homosexuality or bisexuality.
2. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders, or other sexual behavior disorders.
3. Compulsive gambling, kleptomania, or pyromania.

4. Psychoactive substance abuse disorders resulting from current illegal use of drugs.
5. Alcoholism.

“*Employee*” means an individual who is employed by the small business and who meets the criteria in Treasury Regulation § 31.3401(c)-1(b), which is the definition of an employee for federal income tax withholding purposes. An individual who receives self-employment income from the small business shall not be considered an employee of the small business for purposes of this rule.

“*Small business*” means that the business either had gross receipts in the tax year before the current tax year of \$3 million or less or employed not more than 14 full-time employees during the tax year prior to the current tax year.

“*Workplace modifications*” means physical alterations to the office, factory, or other work environment where the disabled employee is working or will work.

42.18(3) *Allocation of assistive tax credit to owners of a business entity.* If the taxpayer that was entitled to an assistive device credit is a business entity, the business entity shall allocate the allowable credit to each of the individual owners of the entity on the basis of each owner’s pro rata share of the earnings of the entity to the total earnings of the entity. Therefore, if a partnership has an assistive device credit of \$2,500 for a tax year and one partner of the partnership receives 25 percent of the earnings of the partnership, that partner would receive an assistive device credit for the tax year of \$625 or 25 percent of the total assistive device credit of the partnership.

42.18(4) *Repeal of credit.* The assistive device credit is repealed on July 1, 2009.

This rule is intended to implement Iowa Code section 422.11E.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.19(404A,422) Historic preservation and cultural and entertainment district tax credit for projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014. A historic preservation and cultural and entertainment district tax credit, subject to the availability of the credit, may be claimed against a taxpayer’s Iowa individual income tax liability for 25 percent of the qualified costs of rehabilitation of property to the extent the costs were incurred on or after July 1, 2000, for approved rehabilitation projects of eligible property in Iowa.

The general assembly has mandated that the department of cultural affairs and the department of revenue adopt rules to jointly administer Iowa Code chapter 404A. 2014 Iowa Acts, House File 2453, amended the historic preservation and cultural and entertainment district tax credit program effective July 1, 2014. The department of revenue’s provisions for projects with tax credits reserved prior to July 1, 2014, are found in this rule. The department of revenue’s provisions for projects with agreements entered into on or after July 1, 2014, are found in rule 701—42.54(404A,422). The department of cultural affairs’ rules related to this program may be found at 223—Chapter 48. Division I of 223—Chapter 48 applies to projects with reservations approved prior to July 1, 2014. Division II of 223—Chapter 48 applies to projects with agreements entered into on or after July 1, 2014.

Notwithstanding anything contained herein to the contrary, the department of cultural affairs shall not reserve tax credits under 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1, for applicants that do not have an approved Part 2 application and a tax credit reservation on or before June 30, 2014. Projects with approved Part 2 applications and provisional tax credit reservations on or before June 30, 2014, shall be governed by 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1; by 223—Chapter 48, Division I; and by rule 701—42.19(404A,422). Projects for which Part 2 applications were approved and agreements entered into after June 30, 2014, shall be governed by 2014 Iowa Acts, House File 2453; by 223—Chapter 48, Division II; and by rule 701—42.54(404A,422).

42.19(1) *Eligible properties for the historic preservation and cultural and entertainment district tax credit.* The following types of property are eligible for the historic preservation and cultural and entertainment district tax credit:

- a. Property verified as listed on the National Register of Historic Places or eligible for such listing.
- b. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation.

- c. Property or district designated a local landmark by a city or county ordinance.
- d. Any barn constructed prior to 1937.

42.19(2) *Application and review process for the historic preservation and cultural and entertainment district tax credit.*

a. Taxpayers who want to claim an income tax credit for completing a historic preservation and cultural and entertainment district project must submit an application for approval of the project. The application forms for the historic preservation and cultural and entertainment district tax credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered.

b. Applicants for the historic preservation and cultural and entertainment district tax credit must include all information and documentation requested on the application forms for the credit in order for the application to be processed.

42.19(3) *Computation of the amount of the historic preservation and cultural and entertainment district tax credit.* The amount of the historic preservation and cultural and entertainment district tax credit is 25 percent of the qualified rehabilitation costs made to an eligible property in a project. Qualified rehabilitation costs are those rehabilitation costs approved by the state historic preservation office for a project for a particular taxpayer to the extent those rehabilitation costs are actually expended by that taxpayer.

a. In the case of commercial property, qualified rehabilitation costs must equal at least \$50,000 or 50 percent of the assessed value of the property, excluding the value of the land, prior to rehabilitation, whichever is less. In the case of property other than commercial property, the qualified rehabilitation costs must equal at least \$25,000 or 25 percent of the assessed value, excluding the value of the land, prior to the rehabilitation, whichever amount is less.

b. In computing the tax credit, the only costs which may be included are the qualified rehabilitation costs incurred commencing from the date on which the first qualified rehabilitation cost is incurred and ending with the end of the taxable year in which the property is placed in service. The rehabilitation period may include dates that precede approval of a project, provided that any qualified rehabilitation costs incurred prior to the date of approval of the project are qualified rehabilitation costs.

c. For purposes of the historic preservation and cultural and entertainment district tax credit, qualified rehabilitation costs include those costs properly included in the basis of the eligible property for income tax purposes. Costs treated as expenses and deducted in the year paid or incurred and amounts that are otherwise not added to the basis of the property for income tax purposes are not qualified rehabilitation costs. Amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees, and other construction-related costs are qualified rehabilitation costs to the extent they are added to the basis of the eligible property for tax purposes. Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs. Any rehabilitation costs used in the computation of the historic preservation and cultural and entertainment district tax credit are not added to the basis of the property for Iowa income tax purposes if the rehabilitation costs were incurred in a tax year beginning on or after January 1, 2000, but prior to January 1, 2001. Any rehabilitation costs incurred in a tax year beginning on or after January 1, 2001, are added to the basis of the rehabilitated property for income tax purposes except those rehabilitation expenses that are equal to the amount of the computed historic preservation and cultural and entertainment district tax credit for the tax year.

EXAMPLE: The basis of a commercial building in a historic district was \$500,000, excluding the value of the land, before the rehabilitation project. During a project to rehabilitate this building, \$600,000 in rehabilitation costs were expended to complete the project and \$500,000 of those rehabilitation costs were qualified rehabilitation costs which were eligible for the historic preservation and cultural and entertainment district tax credit of \$125,000. Therefore, the basis of the building for Iowa income tax purposes was \$975,000, since the qualified rehabilitation costs of \$125,000, which are equal to the

amount of the historic preservation and cultural and entertainment district tax credit for the tax year, are not added to the basis of the rehabilitated property. The basis of the building for federal income tax purposes was \$1,100,000. It should be noted that this example does not consider any possible reduced basis for the building for federal income tax purposes due to the rehabilitation investment credit provided in Section 47 of the Internal Revenue Code.

42.19(4) *Completion of the historic preservation and cultural and entertainment district project and claiming the historic preservation and cultural and entertainment district tax credit on the Iowa return.* After the taxpayer completes an authorized rehabilitation project, the taxpayer must be issued a certificate of completion of the project from the state historic preservation office of the department of cultural affairs. After verifying the taxpayer's eligibility for the historic preservation and cultural and entertainment district tax credit, the state historic preservation office shall issue a historic preservation and cultural and entertainment district tax credit certificate, which shall be included with the taxpayer's income tax return for the tax year in which the rehabilitation project is completed or the year the credit was reserved, whichever is later. For example, if a project was completed in 2008 and the credit was reserved for the state fiscal year ending June 30, 2010, the credit can be claimed on the 2009 calendar year return that is due on April 30, 2010. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the year the tax credit was reserved and the amount of the historic preservation and cultural and entertainment district tax credit. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee, the amount of the tax credit being transferred, and any consideration received in exchange for the tax credit, as provided in subrule 42.19(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, where the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate. The tax credit certificate shall be included with the income tax return for the period in which the project was completed.

For tax years ending on or after July 1, 2007, any historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

42.19(5) *Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity for tax credits reserved for fiscal years beginning on or after July 1, 2012.* For tax credits reserved for fiscal years beginning on or after July 1, 2012, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation.

42.19(6) *Transfer of the historic preservation and cultural and entertainment district tax credit.* For tax periods beginning on or after January 1, 2003, the historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. A tax credit certificate of less than \$1,000 shall not be transferable.

a. For transfers on or after July 1, 2006, the department of revenue will issue the replacement tax credit certificate to the transferee. Within 90 days of the transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number and address, the denomination that each replacement tax credit certificate is to carry, the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax

credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The replacement tax credit certificate must contain the same information that was on the original certificate and must have the same expiration date as the original tax credit certificate.

b. The transferee may use the amount of the tax credit for any tax period for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. If the historic preservation and cultural and entertainment district tax credit of the transferee exceeds the tax liability shown on the transferee's return, the tax credit shall be fully refundable.

This rule is intended to implement Iowa Code chapter 404A as amended by 2013 Iowa Acts, Senate File 436, and Iowa Code section 422.11D.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9104B, IAB 9/22/10, effective 10/27/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 0398C, IAB 10/17/12, effective 11/21/12; ARC 1138C, IAB 10/30/13, effective 12/4/13; ARC 1968C, IAB 4/15/15, effective 5/20/15]

701—42.20(422) Ethanol blended gasoline tax credit. Effective for tax years beginning on or after January 1, 2002, a retail gasoline dealer may claim an ethanol blended gasoline tax credit against that individual's individual income tax liability. The taxpayer must operate at least one retail motor fuel site at which more than 60 percent of the total gallons of gasoline sold and dispensed through one or more motor fuel pumps by the taxpayer in the tax year is ethanol blended gasoline. The tax credit shall be calculated separately for each retail motor fuel site operated by the taxpayer. The amount of the credit for each eligible retail motor fuel site is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all motor fuel pumps located at that retail motor fuel site during the tax year in excess of 60 percent of all gasoline sold and dispensed through motor fuel pumps at that retail motor fuel site during the tax year.

For taxpayers having a fiscal year ending in 2002, the tax credit is available for each eligible retail motor fuel site based on the total number of gallons of ethanol blended gasoline sold and dispensed through all motor fuel pumps located at the taxpayer's retail motor fuel site from January 1, 2002, until the end of the taxpayer's fiscal year. Assuming a tax period that began on July 1, 2001, and ended on June 30, 2002, the taxpayer would be eligible for the tax credit based on the gallons of ethanol blended gasoline sold from January 1, 2002, through June 30, 2002. For taxpayers having a fiscal year ending in 2002, a claim for refund to claim the ethanol blended gasoline tax credit must be filed before October 1, 2003, even though the statute of limitations for refund set forth in 701—subrule 43.3(8) has not yet expired.

EXAMPLE 1: A taxpayer sold 100,000 gallons of gasoline at the taxpayer's retail motor fuel site during the tax year, 70,000 gallons of which was ethanol blended gasoline. The taxpayer is eligible for the credit since more than 60 percent of the total gallons sold was ethanol blended gasoline. The number of gallons in excess of 60 percent of all gasoline sold is 70,000 less 60,000, or 10,000 gallons. Two and one-half cents multiplied by 10,000 equals a \$250 credit available.

The credit may be calculated on Form IA 6478. The credit must be calculated separately for each retail motor fuel site operated by the taxpayer. Therefore, if the taxpayer operates more than one retail motor fuel site, it is possible that one retail motor fuel site may be eligible for the credit while another retail motor fuel site may not. The credit may be taken only for those retail motor fuel sites for which more than 60 percent of gasoline sales involves ethanol blended gasoline.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

Starting with the 2006 calendar tax year, a taxpayer may claim the ethanol blended gasoline tax credit even if the taxpayer also claims the E-85 gasoline promotion tax credit provided in rule 701—42.31(422) for the same tax year for the same ethanol gallons.

EXAMPLE 2: A taxpayer sold 200,000 gallons of gasoline at a retail motor fuel site in 2006, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer is entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this amount constitutes the gallons in excess of 60 percent of the total gasoline gallons sold. Taxpayer may also claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold.

42.20(1) Definitions. The following definitions are applicable to this rule:

“Ethanol blended gasoline” means the same as defined in Iowa Code section 214A.1.

“Gasoline” means any liquid product prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, motor fuel for use in a spark-ignition, internal combustion engine, and which meets the specifications provided in Iowa Code section 214A.2.

“Motor fuel pump” means a pump, meter, or similar commercial weighing and measuring device used to measure and dispense motor fuel for sale on a retail basis.

“Retail dealer” means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis, regardless of whether the motor fuel pump is located at a retail motor fuel site including a permanent or mobile location.

“Retail motor fuel site” means a geographic location in Iowa where a retail dealer sells and dispenses motor fuel on a retail basis. For example, tank wagons are considered retail motor fuel sites.

“Sell” means to sell on a retail basis.

42.20(2) Allocation of credit to owners of a business entity. If the taxpayer that was entitled to the ethanol blended gasoline tax credit is a partnership, limited liability company, S corporation, estate, or trust, the business entity shall allocate the allowable credit to each of the individual owners of the entity on the basis of each owner’s pro rata share of the earnings of the entity to the total earnings of the entity. Therefore, if a partnership has an ethanol blended gasoline tax credit of \$3,000 and one partner of the partnership receives 25 percent of the earnings of the partnership, that partner would receive an ethanol blended gasoline tax credit for the tax year of \$750 or 25 percent of the total ethanol blended gasoline tax credit of the partnership.

42.20(3) Repeal of ethanol blended gasoline tax credit. The ethanol blended gasoline tax credit is repealed on January 1, 2009. However, the tax credit is available for taxpayers whose fiscal year ends after December 31, 2008, for those ethanol gallons sold beginning on the first day of the taxpayer’s fiscal year until December 31, 2008. The ethanol promotion tax credit described in rule 701—42.37(15,422) is available beginning January 1, 2009, for retail dealers of gasoline.

See 701—subrule 52.19(3) for an example illustrating how this subrule is applied.

This rule is intended to implement Iowa Code section 422.11C.

[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.21(15E) Eligible development business investment tax credit. Effective for tax years beginning on or after January 1, 2001, a business which qualifies as an eligible development business may receive a tax credit of up to 10 percent of the new investment which is directly related to the construction, expansion or rehabilitation of building space to be used for manufacturing, processing, cold storage, distribution, or office facilities.

An eligible development business must be approved by the Iowa department of economic development prior to March 17, 2004, and meet the qualifications of Iowa Code section 15E.193C. Effective March 17, 2004, the eligible development business program is repealed.

New investment includes the purchase price of land and the cost of improvements made to real property. The tax credit may be claimed by an eligible development business in the tax year in which the construction, expansion or rehabilitation is completed.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

If the eligible development business fails to meet and maintain any one of the requirements to be an eligible business, the business shall be subject to repayment of all or a portion of the amount of tax incentives received. For example, if within five years of project completion the development business sells or leases any space to any retail business, the development business shall proportionally repay the value of the investment credit. The proportion of the investment credit that would be due for repayment by an eligible development business for selling or leasing space to a retail business would be determined by dividing the square footage of building space occupied by the retail business by the square footage of the total building space.

An eligible business which is not a development business and which operates in an enterprise zone cannot claim an investment tax credit if the property is owned, or was previously owned, by an approved development business that has already received an investment tax credit. An eligible business which is not a development business can claim an investment tax credit only on additional new improvements made to real property that was not included in the development business's approved application for the investment tax credit.

This rule is intended to implement Iowa Code section 15E.193C.
[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.22(15E,422) Venture capital credits.

42.22(1) *Investment tax credit for an equity investment in a qualifying business or community-based seed capital fund.*

a. Equity investments in a qualifying business or community-based seed capital fund before January 1, 2011. See rule 123—2.1(15E) for the discussion of the investment tax credit for an equity investment in a qualifying business or community-based seed capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board, for equity investments made before January 1, 2011. For equity investments made in a qualifying business prior to January 1, 2004, only direct investments made by an individual are eligible for the investment tax credit. Individuals receiving income from a revocable trust's investment in a qualifying business are eligible for the investment tax credit for the portion of the revocable trust's equity investment in a qualifying business.

b. Equity investments in a qualifying business or community-based seed capital fund on or after January 1, 2011, and before July 2, 2015. For equity investments made on or after January 1, 2011, see 261—Chapter 115 for information regarding eligibility for qualifying businesses and community-based seed capital funds, applications for the investment tax credit for equity investments in a qualifying business or community-based seed capital fund, and the issuance of tax credit certificates by the economic development authority.

(1) Certificate issuance. The department of revenue will be notified by the economic development authority when the tax credit certificates are issued.

(2) Amount of the tax credit. The credit is equal to 20 percent of the taxpayer's equity investment in a qualifying business or community-based seed capital fund.

(3) Year in which the tax credit may be claimed. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. For investments made prior to January 1, 2014, a taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. For investments made in qualifying businesses on or after January 1, 2014, the credit can be claimed in the year of the investment. However, for investments made in qualifying businesses during the 2014 calendar year, the credit cannot be redeemed prior to January 1, 2016. For example, if an individual taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012 calendar year, the individual taxpayer cannot claim the tax credit until the tax year ending December 31, 2015. However, if the taxpayer dies prior to redeeming the tax credit, the remaining tax credit may be redeemed on the

decedent's final income tax return. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$2 million. The tax credit certificate must be included with the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

(4) Carried over tax credits. If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the \$2 million cap has been reached, the tax credit may be claimed by the taxpayer for the third tax year following the tax year for which the credit is issued. For example, if an individual taxpayer makes an equity investment in December 2012 and the \$2 million cap for the fiscal year ending June 30, 2013, had already been reached, the tax credit will be issued for the tax year ending December 31, 2013, and cannot be redeemed until the tax year ending December 31, 2016.

(5) Limitations. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. The tax credit is not transferable to any other taxpayer.

(6) Pro rata tax credit claims for certain business entities. For equity investments made in a community-based seed capital fund or equity investments made in a qualifying business on or after January 1, 2004, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

c. Equity investments in a qualifying business on or after July 2, 2015. For equity investments made on or after July 2, 2015, see 261—Chapter 115 for information regarding eligibility for qualifying businesses, applications for the investment tax credit for equity investments in a qualifying business, and the issuance of tax credit certificates by the economic development authority.

(1) Certificate issuance. The department of revenue will be notified by the economic development authority when the tax credit certificates are issued.

(2) Amount of the tax credit. For fiscal years beginning July 1, 2011, the amount of the tax credits authorized cannot exceed \$2 million. The credit is equal to 25 percent of the taxpayer's equity investment in a qualifying business. In any one calendar year, the amount of tax credits issued for any one qualifying business shall not exceed \$500,000. The maximum amount of tax credit that may be issued per calendar year to a natural person and the person's spouse or dependent shall not exceed \$100,000 combined. For purposes of this paragraph, "dependent" has the same meaning as provided by the Internal Revenue Code.

(3) Year in which the tax credit may be claimed. A taxpayer shall not claim a tax credit prior to September 1, 2016. The tax credit certificate must be included with the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate. For purposes of this paragraph, an investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code.

(4) Pro rata tax credit claims for certain business entities. An individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust. Any credits claimed by an individual are subject to the limitations provided in 42.22(1)"c"(2) above.

(5) Refundability. For a tax credit claimed against the taxes imposed in Iowa Code chapter 422, division II, any tax credit in excess of the tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final completed return credited to the tax liability for the following tax year.

(6) Transfers and carryback of tax credits prohibited. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. The tax credit is not transferable to any other taxpayer.

42.22(2) *Investment tax credit for an equity investment in a venture capital fund.* See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board. This credit is repealed for investments in venture capital funds made after July 1, 2010.

The department of revenue will be notified by the Iowa capital investment board when the tax credit certificates are issued. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

For equity investments made in a venture capital fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

42.22(3) *Contingent tax credit for investments in Iowa fund of funds.* See rule 123—4.1(15E) for the discussion of the contingent tax credit available for investments made in the Iowa fund of funds organized by the Iowa capital investment corporation. Tax credit certificates related to the contingent tax credits will be issued by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when these tax credit certificates are issued and, if applicable, when they are redeemed. If the tax credit certificate is redeemed, the certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

If the tax credit certificate is redeemed, any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the tax credit certificate is redeemed, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

42.22(4) *Innovation fund investment tax credit.* See 261—Chapter 116 for information regarding eligibility for an innovation fund, applications for the investment tax credit for investments in an innovation fund, and the issuance of tax credit certificates by the economic development authority.

The department of revenue will be notified by the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in the form of cash in an innovation fund for tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013. For tax years beginning and investments made on or after January 1, 2013, the taxpayer may claim a tax credit equal to 25 percent of the taxpayer's equity investment in the form of cash in an innovation fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A taxpayer shall claim the tax credit for the tax year in which the investment is made. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$8 million. No tax credit certificates will be issued prior to September 1, 2014. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the investment was made as stated on the tax credit certificate.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the \$8 million cap has been reached, the tax credit may be claimed by the taxpayer for the tax year following the tax year for which the credit is issued. For example, if an individual taxpayer makes an equity investment in December 2013 and the \$8 million cap for the fiscal year ending June 30, 2014, had already been reached, the tax credit will be issued for the tax year ending December 31, 2014, and can be redeemed for the tax year ending December 31, 2014.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

The innovation fund tax credit certificate may be transferred once to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the innovation fund tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

For equity investments made in an innovation fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

This rule is intended to implement Iowa Code sections 15E.51, 15E.52, 15E.66, 422.11F, and 422.11G and section 15E.43 as amended by 2015 Iowa Acts, chapter 138.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9104B, IAB 9/22/10, effective 10/27/10; ARC 9966B, IAB 1/11/12, effective 2/15/12; ARC 1102C, IAB 10/16/13, effective 11/20/13; ARC 1665C, IAB 10/15/14, effective 11/19/14; ARC 2632C, IAB 7/20/16, effective 8/24/16]

701—42.23(15) New capital investment program tax credits. Effective for tax periods beginning on or after January 1, 2003, a business which qualifies under the new capital investment program is eligible to receive tax credits. An eligible business under the new capital investment program must be approved by the Iowa department of economic development and meet the qualifications of 2003 Iowa Acts, chapter 125, section 4. The new capital investment program was repealed on July 1, 2005, and has been replaced with the high quality job creation program. See rule 701—42.29(15) for information on the tax credits available under the high quality job creation program. Any tax credits earned by businesses approved under the new capital investment program prior to July 1, 2005, remain valid and can be claimed on tax returns filed after July 1, 2005.

42.23(1) Research activities credit. A business approved under the new capital investment program is eligible for an additional research activities credit as described in 701—subrule 52.7(5). This credit for increasing research activities is in lieu of the research activities credit described in subrule 42.11(3).

42.23(2) Investment tax credit.

a. General rule. An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business. The percentage is equal to the amount provided in paragraph “b.” New investment directly related to new jobs created by the location or expansion of an eligible business includes the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1(1), paragraphs “e” and “j,” purchased for use in the operation of the eligible business. The purchase price shall be depreciated in accordance with generally accepted accounting principles.

- (2) The purchase price of real property and any buildings and structures located on the real property.
- (3) The cost of improvements made to real property which is used in the operation of the eligible business.

For eligible businesses approved by the Iowa department of economic development on or after March 17, 2004, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer's cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

Any credit in excess of the tax liability for the tax period may be carried forward seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

b. Tax credit percentage. The amount of tax credit claimed shall be based on the number of high quality jobs created as determined by the Iowa department of economic development:

(1) If no high quality jobs are created but economic activity within Iowa is advanced, the eligible business may claim a tax credit of up to 1 percent of the new investment.

(2) If 1 to 5 high quality jobs are created, the eligible business may claim a tax credit of up to 2 percent of the new investment.

(3) If 6 to 10 high quality jobs are created, the eligible business may claim a tax credit of up to 3 percent of the new investment.

(4) If 11 to 15 high quality jobs are created, the eligible business may claim a tax credit of up to 4 percent of the new investment.

(5) If 16 or more high quality jobs are created, the eligible business may claim a tax credit of up to 5 percent of the new investment.

c. Investment tax credit—value-added agricultural products or biotechnology-related processes. An eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund for all or a portion of an unused investment tax credit. An eligible business includes a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol.

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million during a fiscal year to eligible businesses for this program and eligible businesses described in subrule 42.14(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

The economic development authority shall issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol, as provided in subrule 42.14(2). For value-added agricultural projects involving ethanol, the cooperative must submit a list of

its members and the share of each member's interest in the cooperative. The economic development authority shall issue a tax credit certificate to each member on the list.

d. Repayment of benefits. If an eligible business fails to maintain the requirements of the new capital investment program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of the new capital investment program. This repayment is required because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.*, Docket No. 11DORF 042-044, June 11, 2012.

An eligible business in the new capital investment program may also be required to repay all or a portion of the tax incentives received on Iowa returns if the eligible business experiences a layoff of employees in Iowa or closes any of its facilities in Iowa.

If, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which a tax credit was claimed under this subrule, the income tax liability of the eligible business shall be increased by one of the following amounts:

- (1) One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.
- (2) Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.
- (3) Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.
- (4) Forty percent of the tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.
- (5) Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

This rule is intended to implement Iowa Code section 15.333 as amended by 2010 Iowa Acts, Senate File 2380, and sections 15.335 and 15.381 to 15.387.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9104B, IAB 9/22/10, effective 10/27/10; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.24(15E,422) Endow Iowa tax credit. Effective for tax years beginning on or after January 1, 2003, a taxpayer who makes an endowment gift to an endow Iowa qualified community foundation may qualify for an endow Iowa tax credit, subject to the availability of the credit. For tax years beginning on or after January 1, 2003, but before January 1, 2010, the credit is equal to 20 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, the credit is equal to 25 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, a taxpayer cannot claim a deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes. The administrative rules for the endow Iowa tax credit for the Iowa department of economic development may be found under 261—Chapter 47.

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts

of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. For the 2012 calendar year and subsequent calendar years, the total amount of endow Iowa tax credits is \$6 million; the maximum amount of tax credit authorized to a single taxpayer is \$300,000 (\$6 million multiplied by 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 15E.305 as amended by 2013 Iowa Acts, House File 620, and section 422.11H.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9104B, IAB 9/22/10, effective 10/27/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 0398C, IAB 10/17/12, effective 11/21/12; ARC 1138C, IAB 10/30/13, effective 12/4/13]

701—42.25(422) Soy-based cutting tool oil tax credit. Effective for tax periods ending after June 30, 2005, and beginning before January 1, 2007, a manufacturer may claim a soy-based cutting tool oil tax credit. A manufacturer, as defined in Iowa Code section 428.20, may claim the credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

All of the following conditions must be met to qualify for the tax credit:

1. The costs must be incurred after June 30, 2005, and before January 1, 2007.
2. The costs must be incurred in the first 12 months of the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.
3. The soy-based cutting tool oil must contain at least 51 percent soy-based products.
4. The costs of the purchase and replacement must not exceed \$2 per gallon of soy-based cutting tool oil used in the transition.
5. The number of gallons used in the transition cannot exceed 2,000 gallons.
6. The manufacturer shall not deduct for Iowa income tax purposes the costs incurred in the transition to using soy-based cutting tool oil which are deductible for federal tax purposes.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.11I.

[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.26(15I,422) Wage-benefits tax credit. Effective for tax years ending on or after June 9, 2006, a wage-benefits tax credit equal to a percentage of the annual wages and benefits paid for a qualified new job created by the location or expansion of the business in Iowa is available for qualified businesses.

42.26(1) Definitions. The following definitions are applicable to this rule:

“Average county wage” means the annualized average hourly wage calculated by the Iowa department of economic development using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report provided by the department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

“Benefits” means all of the following:

1. Medical and dental insurance plans.
2. Pension and profit-sharing plans.
3. Child care services.
4. Life insurance coverage.
5. Vision insurance plan.
6. Disability coverage.

“Department” means the Iowa department of revenue.

“Full-time” means the equivalent of employment of one person:

1. For 8 hours per day for a five-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations, and other paid leave, or

2. The number of hours or days per week, including paid holidays, vacations, and other paid leave, currently established by schedule, custom or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit.

“Grow Iowa values fund” means the grow Iowa values fund created in Iowa Code Supplement section 15G.108.

“Nonqualified new job” means any one of the following:

1. A job previously filled by the same employee in Iowa.
2. A job that was relocated from another location in Iowa.
3. A job that is created as a result of a consolidation, merger, or restructuring of a business entity if the job does not represent a new job in Iowa.

“Qualified new job” or *“job creation”* means a job that meets all of the following criteria:

1. Is a new full-time job that has not existed in the business in Iowa within the previous 12 months.
2. Is filled by a new employee for at least 12 months.
3. Is filled by a resident of the state of Iowa.
4. Is not created as a result of a change in ownership.
5. Was created on or after June 9, 2005.

“Retail business” means a business which sells its product directly to a consumer.

“Retained qualified new job” or *“job retention”* means the continued employment, after the first 12 months of employment, of the same employee in a qualified new job for another 12 months.

“Service business” means a business which is not engaged in the sale of tangible personal property, and which provides services to a local consumer market and does not have a significant proportion of its sales coming from outside Iowa.

42.26(2) Calculation of credit. A business which is not a retail or service business may claim the wage-benefits tax credit which is determined as follows:

- a. If the annual wages and benefits for the qualified new job equal less than 130 percent of the average county wage, the credit is 0 percent of the annual wage and benefits paid.

- b. If the annual wages and benefits for the qualified new job equal at least 130 percent but less than 160 percent of the average county wage, the credit is 5 percent of the annual wage and benefits paid for each qualified new job.

- c. If the annual wages and benefits for the qualified new job equal at least 160 percent of the average county wage, the credit is 10 percent of the annual wage and benefits paid for each qualified new job.

If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

42.26(3) *Application for the tax credit; tax credit certificate; amount of tax credit available.*

a. In order to claim the wage-benefits tax credit, the business must submit an application to the department along with information on the qualified new job or retained qualified new job. The application cannot be submitted until the end of the twelfth month after the qualified job was filled. For example, if the new job was created on June 9, 2005, the application cannot be submitted until June 9, 2006. The following information must be submitted in the application:

- (1) Name, address and federal identification number of the business.
- (2) A description of the activities of the business. If applicable, the proportion of the sales of the business which come from outside Iowa shall be included.
- (3) The amount of wages and benefits paid to each employee for each new job for the previous 12 months.
- (4) A computation of the amount of credit being requested.
- (5) The address and state of residence of each new employee.
- (6) The date that the qualified new job was filled.
- (7) An indication of whether the job is a qualified new job or a retained qualified new job for which an application was filed for a previous year.

(8) The type of tax for which the credit will be applied.

(9) If the business is a partnership, S corporation, limited liability company, or estate or trust, a schedule of the partners, shareholders, members or beneficiaries. This schedule shall include the names, addresses and federal identification numbers of the partners, shareholders, members or beneficiaries, along with their percentage of the pro rata share of earnings of the partnership, S corporation, limited liability company, or estate or trust.

b. Upon receipt of the application, the department has 45 days either to approve or deny the application. If the department does not act on the application within 45 days, the application is deemed approved. If the department denies the application, the business may appeal the decision to the Iowa economic development board within 30 days of the notice of denial.

c. If the application is approved, or if the Iowa economic development board approves the application that was previously denied by the department, a tax credit certificate will be issued by the department to the business, subject to the availability of the amount of credits that may be issued. The tax credit certificate shall contain the name, address and tax identification number of the business (or individual, estate or trust, if applicable), the date of the qualified new job(s), the wage and benefits paid for each job(s) for the 12-month period, the amount of the credit, the tax period for which the credit may be applied, and the type of tax for which the credit will be applied.

d. The tax credit certificates that are issued in a fiscal year cannot exceed \$10 million for the fiscal year ending June 30, 2007, and shall not exceed \$4 million for the fiscal years ending June 30, 2008, through June 30, 2011. The tax credit certificates are issued on a first-come, first-served basis. Therefore, if tax credit certificates have already been issued for the \$10 million limit for the fiscal year ending June 30, 2007, any applications for tax credit certificates received after the \$10 million limit has been reached will be denied. Similarly, if tax credit certificates have already been issued for the \$4 million limit for the fiscal years ending June 30, 2008, through June 30, 2011, any applications for tax credit certificates received after the \$4 million limit has been reached will be denied. If a business failed to receive all or a part of the tax credit due to the \$10 million or \$4 million limitation, the business may reapply for the tax credit for the retained new job for a subsequent tax period.

e. A business which qualifies for the tax credit for the fiscal year ending June 30, 2007, is eligible to receive the tax credit certificate for each of the fiscal years ending June 30, 2008, through June 30, 2011, subject to the \$4 million limit for tax credits for the fiscal years ending June 30, 2008, through June 30, 2011, if the business retains the qualified new job during each of the fiscal years ending June 30, 2008, through June 30, 2011. The business must reapply by June 30 of each fiscal year for the tax credit, and the percentage of the wages and benefits allowed for the credit set forth in subrule 42.26(2) for the first year is applicable for each subsequent period. Preference will be given in issuing tax credit

certificates for those businesses that retain qualified new jobs, and preference will be given in the order in which applications were filed for the fiscal year ending June 30, 2007. Therefore, those businesses which received the first \$4 million of tax credits for the year ending June 30, 2007, in which the qualified jobs were created will automatically receive a tax credit for the fiscal years ending June 30, 2008, through June 30, 2011, as long as the qualified jobs are retained and an application is completed.

f. For the fiscal years ending June 30, 2008, through June 30, 2011, if credits become available because the jobs were not retained by businesses which received the first \$4 million of credits for the year ending June 30, 2007, an application which was originally denied will be considered in the order in which the application was received for the fiscal year ending June 30, 2007.

EXAMPLE: Wage-benefits tax credits of \$4 million are issued for the fiscal year ending June 30, 2007, relating to applications filed between July 1, 2006, and March 31, 2007. For the next fiscal year ending June 30, 2008, the same businesses that received the \$4 million in wage-benefits tax credits filed applications totaling \$3 million for the retained jobs for which the application for the prior year was filed on or before March 31, 2007. The first \$3 million of the available \$4 million will be allowed to these same businesses. The remaining \$1 million that is still available for the fiscal year ending June 30, 2008, will be allowed for those retained jobs for which applications for the prior year were filed starting on April 1, 2007, until the remaining \$1 million in tax credits is issued.

g. A business may apply in writing to the Iowa economic development board for a waiver of the average wage and benefit requirement. If a waiver is granted, the business must provide the department with the waiver and it must be attached to the application.

h. A business may receive other federal, state, and local incentives and tax credits in addition to the wage-benefits tax credit. However, a business that receives a wage-benefits tax credit cannot receive tax incentives under the high quality job creation program set forth in Iowa Code chapter 15 or moneys from the grow Iowa values fund.

42.26(4) Examples. The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: Business A operates a grocery store and hires five new employees, each of whom will earn wages and benefits in excess of 130 percent of the average county wage. Business A would not qualify for the wage-benefits tax credit because Business A is a retail business.

EXAMPLE 2: Business B operates an accounting firm and hires two new accountants, each of whom will earn wages and benefits in excess of 160 percent of the average county wage. The accounting firm provides services to clients wholly within Iowa. Business B would not qualify for the wage-benefits tax credit because it is a service business. The majority of its sales are generated from within the state of Iowa and thus Business B, because it is a service business, is not eligible for the credit.

EXAMPLE 3: Business C operates a software development business and hires two new programmers, each of whom will earn wages and benefits in excess of 160 percent of the average county wage. Over 50 percent of the customers of Business C are located outside Iowa. Business C would qualify for the wage-benefits tax credit because a majority of its sales are coming from outside the state, even though Business C is engaged in the performance of services.

EXAMPLE 4: Business D is a manufacturer that hires a new employee in Clayton County, Iowa, on July 8, 2005. The average county wage for Clayton County for the third quarter of 2005 is \$11.86 per hour. If the average county wage per hour for Clayton County is \$11.95 for the fourth quarter of 2005, \$12.05 for the first quarter of 2006, and \$12.14 for the second quarter of 2006, the annualized average county wage for this 12-month period is \$12.00 per hour. This wage equates to an average annual wage of \$24,960 ($\$12.00 \times 40 \text{ hours} \times 52 \text{ weeks}$). In order for Business D to qualify for the 5 percent wage-benefits tax credit, the new employee must receive wages and benefits totaling \$32,448 (130 percent of \$24,960) for the 12-month period from July 8, 2005, through July 7, 2006. In order for Business D to qualify for the 10 percent wage-benefits tax credit, the new employee must receive wages and benefits totaling \$39,936 (160 percent of \$24,960) for the 12-month period from July 8, 2005, through July 7, 2006.

EXAMPLE 5: Business E is a manufacturer that hires three new employees in Grundy County, Iowa, on July 1, 2005. If the average county wage for the 12-month period from July 1, 2005, through June 30, 2006, is \$13.75 per hour in Grundy County, this wage equates to an average county wage of \$28,600.

The wages and benefits for each of these three new employees is \$40,000 for the period from July 1, 2005, through June 30, 2006, which is 140 percent of the average county wage. Business E is entitled to a wage-benefits tax credit of \$2,000 for each employee ($\$40,000 \times 5$ percent), for a total wage-benefits tax credit of \$6,000. If Business E files on a calendar-year basis, the \$6,000 wage-benefits tax credit can be claimed on the tax return for the period ending December 31, 2006.

EXAMPLE 6: Business F is a manufacturer that hires ten new employees on July 1, 2005, and qualifies for the wage-benefits tax credit because the wages and benefits paid exceed 130 percent of the average county wage. Business F receives a wage-benefits tax credit in July 2006 for these ten employees, which can be used on the tax return for the period ending December 31, 2006. On August 31, 2006, two of the employees leave the business and are replaced by two new employees. Business F is entitled to a wage-benefits tax credit for only eight employees in July 2007 because only eight employees continued employment for the subsequent 12 months in a job which meets the definition of a retained qualified new job. Business F cannot request a wage-benefits tax credit for the two employees hired on August 31, 2006. Business F cannot request the wage-benefits tax credit because these two full-time jobs existed in the business within the previous 12 months in Iowa, and these jobs do not meet the definition of a qualified new job or retained qualified new job.

EXAMPLE 7: Business G is a manufacturer that hires ten new employees on July 1, 2005, and qualifies for the wage-benefits tax credit because the wages and benefits paid exceed 130 percent of the average county wage. Business G receives a wage-benefits tax credit in July 2006 for these ten employees equal to 5 percent of the wages and benefits paid. On October 1, 2006, Business G hires an additional five employees, each of whom receives wages and benefits in excess of 130 percent of the average county wage. Business G can apply for the wage-benefits tax credit on October 1, 2007, for these five employees, since these employees have now been employed for 12 months. However, the credit may not be allowed if more than \$4 million of retained job tax credits have been issued for the fiscal year ending June 30, 2008.

EXAMPLE 8: Assume the same facts as Example 6, except that the \$10 million limit of tax credits has already been met for the fiscal year ending June 30, 2007, and Business F hired five new employees on August 31, 2006. Business F can apply for the wage-benefits tax credit for the three employees on August 31, 2007, a number which is above the ten full-time jobs originally created, but Business F may not receive the tax credit if more than \$4 million of retained job tax credits have been issued for the fiscal year ending June 30, 2008.

EXAMPLE 9: Assume the same facts as Example 7, except that the ten employees hired on July 1, 2005, by Business G received wages and benefits equal to 155 percent of the average county wage, and the five employees hired on October 1, 2006, by Business G received wages equal to 161 percent of the average county wage. Business G can apply for the tax credit on October 1, 2007, equal to 10 percent of the wages and benefits paid for the employees hired on October 1, 2006. On July 1, 2007, Business G can reapply for the tax credit equal to 5 percent of the wages and benefits paid only for the ten employees originally hired on July 1, 2005, even if the wages and benefits for these ten employees exceed 160 percent of the average county wage for the period from July 1, 2006, through June 30, 2007.

42.26(5) *Repeal of the wage-benefits tax credit.* The wage-benefits tax credit is repealed effective July 1, 2008. However, the wage-benefits tax credit is still available through the fiscal year ending June 30, 2011, as provided in subrule 42.26(3), paragraphs “d,” “e,” and “f.” A business is not entitled to a wage-benefits tax credit for a qualified new job created on or after July 1, 2008.

This rule is intended to implement Iowa Code chapter 15I and section 422.11L.
[ARC 8702B, IAB 4/21/10, effective 5/26/10]

701—42.27(422,476B) Wind energy production tax credit. Effective for tax years beginning on or after July 1, 2006, an owner of a qualified wind energy production facility that has been approved by the Iowa utilities board may claim a wind energy production tax credit for qualified electricity sold by the owner or used for on-site consumption against a taxpayer’s Iowa individual income tax liability. The administrative rules for the certification of eligibility for the wind energy production tax credit for the Iowa utilities board may be found in rule 199—15.18(476B).

42.27(1) *Application and review process for the wind energy production tax credit.* An owner of a wind energy production facility must be approved by the Iowa utilities board in order to qualify for the wind energy production tax credit. The facility must be an electrical production facility that produces electricity from wind, that is located in Iowa, and that is placed in service on or after July 1, 2005, but before July 1, 2012. For applications filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least 2 megawatts and no more than 30 megawatts. For applications filed on or after July 1, 2009, by a private college or university, community college, institution under the control of the state board of regents, public or accredited nonpublic elementary and secondary school, or public hospital as defined in Iowa Code section 249J.3, the facility must have a combined nameplate generating capacity of no less than $\frac{3}{4}$ of a megawatt.

The maximum amount of nameplate generating capacity for all qualified wind energy production facilities cannot exceed 50 megawatts. An owner shall not own more than two qualified facilities. A facility that is not operational within 18 months after issuance of the approval from the Iowa utilities board will no longer be considered a qualified facility. However, a facility that is not operational within 18 months due to the unavailability of necessary equipment shall be granted an additional 12 months to become operational.

An owner of the qualified facility must apply to the Iowa utilities board for the wind energy production tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.20(1).

42.27(2) *Computation of the credit.* The wind energy production credit equals one cent multiplied by the number of kilowatt-hours of qualified electricity sold or used for on-site consumption by the owner during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours of qualified electricity sold may exceed 12 months.

EXAMPLE: A qualified facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the period ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity sold between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours of electricity sold to a related person. The definition of “related person” uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation § 1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

The utilities board will notify the department of the number of kilowatt-hours of electricity sold by the qualified facility or generated and used on site by the qualified facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the owner. The tax credit certificate will include the taxpayer’s name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 42.27(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.8(17A). The department will not issue a tax credit certificate if the facility is not operational within 18 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 42.27(1).

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner’s, member’s, shareholder’s or beneficiary’s pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits

authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution, or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation, or the beneficiary's interest in the estate or trust.

The credit can be allowed for a ten-year period beginning on the date the qualified facility was originally placed in service. For example, if a facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours of electricity sold between April 1, 2006, and March 31, 2016.

To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax year set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

42.27(3) *Transfer of the wind energy production tax credit certificate.* The wind energy production tax credit certificate may be transferred to any person or entity.

Within 30 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the wind energy production tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement Iowa Code section 422.11J and Iowa Code chapter 476B as amended by 2011 Iowa Acts, House File 672.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 0251C, IAB 8/8/12, effective 9/12/12; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.28(422,476C) Renewable energy tax credit. Effective for tax years beginning on or after July 1, 2006, a purchaser or producer of renewable energy whose facility has been approved by the Iowa utilities board may claim a renewable energy tax credit for qualified renewable energy against a taxpayer's Iowa individual income tax liability.

42.28(1) *Eligible facility application process.*

a. Eligible facility application process, generally. A producer or purchaser of a renewable energy facility must be approved as an eligible renewable energy facility by the Iowa utilities board in order to qualify for the renewable energy tax credit. The eligible renewable energy facility can be a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility or refuse conversion facility. The facility must be located in Iowa and placed in service on or after July 1, 2005, and before January 1, 2018. The administrative rules for the

certification of eligibility for the renewable energy tax credit for the Iowa utilities board may be found in rule 199—15.19(476C).

b. Limitations on maximum energy production and nameplate generating capacity. The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed 363 megawatts. For tax years beginning prior to January 1, 2015, the maximum amount of energy production capacity for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of 53 megawatts of nameplate generating capacity and 167 billion British thermal units of heat for a commercial purpose. For tax years beginning on or after January 1, 2015, the maximum amount of energy production for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of 63 megawatts of nameplate generating capacity and, annually, 167 billion British thermal units of heat for a commercial purpose. A facility that is not operational within 30 months after issuance of approval from the utilities board will no longer be considered a qualified facility. However, if the facility is a wind energy conversion property and is not operational within 18 months due to the unavailability of necessary equipment, the facility may apply for a 12-month extension of the 30-month limit. Extensions can be renewed for succeeding 12-month periods if the facility applies for the extension prior to expiration of the current extension period. A producer of renewable energy, who is the person who owns the renewable energy facility, cannot own more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than 51 percent in an eligible renewable energy facility cannot have an equity interest greater than 10 percent in any other renewable energy facility. However, for tax years beginning on or after January 1, 2015, an entity described in Iowa Code section 476C.1(6) “b”(4) or (5) may have an ownership interest in up to four solar energy conversion facilities described in Iowa Code section 476C.3(4) “b”(3).

42.28(2) Tax credit certificate procedure.

a. Tax credit application process. A producer or purchaser of a renewable energy facility must apply to the utilities board for the renewable energy tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.21(1). The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that were generated and purchased from an eligible facility or used for on-site consumption by the producer during the tax year for which the credit is applied.

b. Tax credit calculation. The department shall calculate the amount of the credit for which the applicant is eligible in accordance with subrules 42.28(3) and 42.28(4) and shall issue a tax credit certificate for that amount or shall notify the applicant in writing of its refusal to do so.

c. Tax credit certificate issuance. The tax credit certificate will include the taxpayer’s name, address and federal identification number; the tax type for which the credit will be claimed; the amount of the credit; and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 42.28(5). Once a tax credit certificate is issued pursuant to Iowa Code chapter 476C, it shall not be terminated or rescinded.

d. Taxpayers that are partnerships, limited liability companies, S corporations, or estates or trusts. If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner’s, member’s, shareholder’s or beneficiary’s pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity

production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution, or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation or of the beneficiary's interest in the estate or trust.

e. Carryforward. To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

42.28(3) Limitations.

a. Energy production. Of the maximum amount of energy production capacity equivalent for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities:

(1) No single facility may be allocated more than ten megawatts of nameplate generating capacity or energy production capacity equivalent.

(2) For tax years beginning on or after January 1, 2015, ten megawatts of nameplate generating capacity or energy production capacity equivalent shall be reserved for solar energy conversion facilities described in Iowa Code section 476C.3(4) "b"(3) that have a generating capacity of one and one-half megawatts or less.

(3) For tax years, beginning on or after January 1, 2014, 55 billion British thermal units of heat for a commercial purpose shall be reserved annually for an eligible facility that is a refuse conversion facility for processed, engineered fuel from a multicounty solid waste management planning area.

(4) For tax years beginning on or after January 1, 2014, the maximum annual amount of energy production capacity for a single refuse conversion facility is 55 billion British thermal units of heat for a commercial purpose.

b. Related persons. The credit is not allowed for any kilowatt-hours, standard cubic feet or British thermal units that are purchased from an eligible facility by a related person. Persons shall be treated as related to each other if either person owns an 80 percent or more equity interest in the other person.

c. Operation. The facility must be operational within 30 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 42.28(1).

d. Prohibited for persons that have received a credit under Iowa Code chapter 476B. A person that has received a wind energy production tax credit pursuant to Iowa Code chapter 476B may not be issued a renewable energy tax credit certificate.

e. Ten-year award limitation. The credit is allowed for a ten-year period beginning on the date the purchaser first purchases renewable energy from a qualified facility or on the date the qualified facility first began producing renewable energy for on-site consumption. For example, if a renewable energy facility first began producing energy for on-site consumption on April 1, 2006, the credit can be claimed for kilowatt-hours, standard cubic feet or British thermal units generated and used for on-site consumption by the producer between April 1, 2006, and March 31, 2016. Tax credit certificates cannot be issued for renewable energy purchased or produced for on-site consumption after December 31, 2027.

42.28(4) Computation of the credit. The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or \$1.44 per 1000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose generated by and purchased from an eligible renewable energy facility or used for on-site consumption by the producer during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours, standard cubic feet or British thermal units generated by and purchased from the facility or used for on-site consumption by the producer may exceed 12 months if the facility was operational for fewer than 12 months in its initial year of operation.

EXAMPLE: A qualified wind energy production facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the year ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit

for the 2007 tax year can include electricity generated and purchased or used for on-site consumption by the producer between April 1, 2006, and December 31, 2007.

42.28(5) *Transfer of the renewable energy tax credit certificate.*

a. One-transfer limitation. The renewable energy tax credit certificate may be transferred once to any person or entity. A decision between a producer and purchaser of renewable energy regarding who may claim the tax credit is not considered a transfer.

b. Transfer process—information required. Within 30 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number; the amount of the tax credit being transferred; the value of any consideration provided by the transferee to the transferor; and any other information required by the department. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the renewable energy tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

c. Tax year. The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit.

d. Consideration. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

42.28(6) *Small wind innovation zones.* Effective for tax years beginning on or after January 1, 2009, an owner of a small wind energy system operating within a small wind innovation zone which has been approved by the Iowa utilities board is eligible for the renewable energy tax credit. The administrative rules of the Iowa utilities board for the certification of eligibility for owners of small wind energy systems operating within a small wind innovation zone may be found in rule 199—15.22(476).

42.28(7) *Appeals.* If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing, and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.8(17A).

This rule is intended to implement Iowa Code section 422.11J and Iowa Code chapter 476C as amended by 2015 Iowa Acts, chapter 124, and 2016 Iowa Acts, House File 2468.

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701—42.29(15) *High quality job creation program.* Effective for tax periods ending on or after July 1, 2005, for programs approved on or after July 1, 2005, but before July 1, 2009, a business which qualifies under the high quality job creation program is eligible to receive tax credits. The high quality job creation program replaces the new jobs and income program and the new capital investment program. An eligible business under the high quality job creation program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code section 15.329. The administrative rules for the high quality job creation program for the Iowa department of economic development may be found at 261—Chapter 68.

The high quality job creation program was repealed on July 1, 2009, and has been replaced with the high quality jobs program. See rule 701—42.42(15) for information on the investment tax credit and additional research activities credit under the high quality jobs program. Any investment tax credit and

additional research activities credit earned by businesses approved under the high quality job creation program prior to July 1, 2009, remains valid and can be claimed on tax returns filed after July 1, 2009.

42.29(1) *Research activities credit.* An eligible business approved under the high quality job creation program is eligible for an additional research activities credit as described in 701—subrule 52.7(4).

Research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate generating capacity. The research activities credit related to renewable energy generation components under the high quality job creation program and the enterprise zone program shall not exceed \$1 million in the aggregate.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in this subrule and are not applicable to the research activities credit set forth in subrule 42.11(3), paragraphs “a” and “b.” The research activities credit is subject to the threshold amounts of qualifying investment set forth in Iowa department of economic development 261—subrule 68.4(7).

42.29(2) *Investment tax credit.*

a. General rule. An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business. The percentage is equal to the amount provided in Iowa department of economic development 261—subrule 68.4(7). New investment directly related to new jobs created by the location or expansion of an eligible business includes the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1(1), paragraphs “e” and “j,” purchased for use in the operation of the eligible business. The purchase price shall be depreciated in accordance with generally accepted accounting principles.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the eligible business.

In addition, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer’s cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

The investment tax credit can be claimed in the tax year in which the qualifying assets are placed in service. The investment tax credit will be amortized over a five-year period. Any credit in excess of the tax liability for the tax period may be carried forward seven years or until used, whichever is the earlier.

EXAMPLE: An eligible business which files tax returns on a calendar-year basis earned \$100,000 of investment tax credits for new investment made in 2006. The business can claim \$20,000 of investment tax credits for each of the years from 2006 through 2010. The \$20,000 of investment tax credit that can be claimed in 2006 can be carried forward to the 2007-2013 tax years if the entire credit cannot be claimed on the 2006 return. Similarly, the \$20,000 investment tax credit that can be claimed in 2007 can be carried forward to the 2008-2014 tax years if the entire credit cannot be claimed on the 2007 return.

If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by an individual must be based on the individual’s pro rata share of the individual’s earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa

Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual.

b. Investment tax credit—value-added agricultural products or biotechnology-related processes. An eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund for all or a portion of an unused investment tax credit. An eligible business includes a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol.

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million during a fiscal year to eligible businesses for this program and the enterprise zone program described in subrule 42.14(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

The economic development authority shall issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol, as provided in subrule 42.14(2). For value-added agricultural projects involving ethanol, the cooperative must submit a list of its members and the share of each member's interest in the cooperative. The economic development authority shall issue a tax credit certificate to each member on the list.

c. Repayment of benefits. If an eligible business fails to maintain the requirements of the high quality job creation program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure of the eligible business to maintain the requirements of the high quality job creation program because the repayment is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.*, Docket No. 11DORF 042-044, June 11, 2012.

An eligible business in the high quality job creation program may also be required to repay all or a portion of the tax incentives received on Iowa returns if the eligible business experiences a layoff of employees in Iowa or closes any of its facilities in Iowa.

If, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which a tax credit was claimed under this subrule, the income tax liability of the eligible business shall be increased by one of the following amounts:

- (1) One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.
- (2) Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.
- (3) Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.
- (4) Forty percent of the tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.

(5) Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

42.29(3) Determination of tax credit amounts. The amount of tax credit claimed under the high quality job creation program shall be based on the number of high quality jobs created and the amount of qualifying investment made as determined by the Iowa department of economic development.

a. If the high quality jobs have a starting wage, including benefits, equal to or greater than 130 percent of the average county wage but less than 160 percent of the average county wage, see Iowa department of economic development 261—paragraph 68.4(7) “a” for the amount of tax credits that may be claimed.

b. If the high quality jobs have a starting wage, including benefits, equal to or greater than 160 percent of the average county wage, see Iowa department of economic development 261—paragraph 68.4(7) “b” for the amount of tax credits that may be claimed.

c. An eligible business approved under the high quality job creation program is not eligible for the wage-benefits tax credit set forth in rule 701—42.26(15I,422).

This rule is intended to implement Iowa Code sections 15.326 to 15.337.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9104B, IAB 9/22/10, effective 10/27/10; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.30(15E,422) Economic development region revolving fund tax credit. Effective for tax years ending on or after July 1, 2005, but beginning before January 1, 2010, a taxpayer who makes a contribution to an economic development region revolving fund may claim a tax credit, subject to the availability of the credit. The tax credit is equal to 20 percent of a taxpayer’s contribution to the economic development region revolving fund approved by the Iowa department of economic development. The administrative rules for the economic development region revolving fund tax credit for the Iowa department of economic development may be found at 261—Chapter 32. The tax credit is repealed for tax years beginning on or after January 1, 2010.

The total amount of economic development region revolving fund tax credits available shall not exceed \$2 million per fiscal year. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit. The economic development region revolving fund tax credit is not transferable to any other taxpayer.

Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro rata share of the individual’s earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code sections 15E.232 and 422.11K as amended by 2010 Iowa Acts, Senate File 2380.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9104B, IAB 9/22/10, effective 10/27/10]

701—42.31(422) Early childhood development tax credit. Taxpayers may claim a tax credit equal to 25 percent of the first \$1,000 of expenses paid to others for early childhood development for each dependent three to five years of age. The credit is available only to taxpayers whose net income is less than \$90,000. If a taxpayer claims the early childhood development tax credit, the taxpayer cannot claim the child and dependent care credit described in rule 701—42.15(422). The early childhood development tax credit is refundable to the extent that the credit exceeds the taxpayer’s income tax liability.

For married taxpayers who elect to file separately on a combined form or elect to file separate returns for Iowa tax purposes, the combined net income of the taxpayers must be less than \$90,000 to be eligible for the credit. If the combined net income is less than \$90,000, the early childhood development tax credit shall be prorated to each spouse in the proportion that each spouse’s respective net income bears to the total combined net income.

Nonresidents and part-year residents who have income from Iowa sources in the tax year may claim the early childhood development tax credit on their Iowa returns. If the taxpayer’s all-source net income

is \$90,000 or higher, the taxpayer will not qualify for the credit. Nonresidents or part-year residents of Iowa must determine the early childhood development tax credit in the ratio of their Iowa-source net income to their all-source net income. In addition, if nonresidents or part-year residents of Iowa are married and elect to file separate returns or to file separately on a combined Iowa return, the early childhood development tax credit must be allocated between the spouses in the ratio of each spouse's Iowa-source net income to their combined Iowa-source net income.

42.31(1) *Expenses eligible for the credit.* The following expenses qualify for the early childhood development tax credit, to the extent they are paid during the time period that a dependent is either three, four, or five years of age:

a. Expenses for services provided by a preschool, as defined in Iowa Code section 237A.1. The preschool may only provide services for periods of time not exceeding three hours per day.

b. Books that improve child development, including textbooks, music books, art books, teacher editions, and reading books.

c. Expenses paid for instructional materials required to be used in a child development or educational lesson activity. These materials include, but are not limited to, paper, notebooks, pencils, and art supplies. In addition, software and toys which are directly and primarily used for educational or learning purposes are considered instructional materials.

d. Expenses paid for lesson plans and curricula.

e. Expenses paid for child development and educational activities outside the home. These activities include, but are not limited to, drama, art, music, and museum activities, including the entrance fees for such activities.

42.31(2) *Expenses not eligible for the credit.* The following expenses do not qualify for the early childhood development tax credit:

a. Any expenses, including expenses paid to a preschool, once a dependent reaches the age of six.

b. Expenses relating to food, lodging, membership fees, or other nonacademic expenses relating to child development and educational activities outside the home.

c. Expenses related to services, materials, or activities for the teaching of religious tenets, doctrines, or worship, in cases where the purpose of the teaching is to inculcate the religious tenets, doctrines, or worship.

This rule is intended to implement Iowa Code section 422.12C.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 6149C, IAB 1/12/22, effective 2/16/22]

701—42.32(422) School tuition organization tax credit. For tax years beginning prior to January 1, 2021, a school tuition organization tax credit is available which is equal to 65 percent of the amount of voluntary cash or noncash contributions made by a taxpayer to a school tuition organization. For tax years beginning on or after January 1, 2021, the tax credit is equal to 75 percent of the amount of voluntary cash or noncash contributions made by a taxpayer to a school tuition organization. There are numerous federal revenue regulations, rulings, court cases and other provisions relating to the determination of the value of a noncash contribution, and these are equally applicable to the determination of the amount of a school tuition organization tax credit.

42.32(1) *Definitions.* The following definitions are applicable to this rule:

“Certified enrollment” means the enrollment at schools served by school tuition organizations as of October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, of the appropriate year.

“Contribution” means a voluntary cash or noncash contribution to a school tuition organization that is not used for the direct benefit of any dependent of the taxpayer or any other student designated by the taxpayer.

“Eligible student” means a student residing in Iowa who is a member of a household whose total annual income during the calendar year prior to the school year in which the student receives a tuition grant from a school tuition organization does not exceed an amount equal to four times the most recently published federal poverty guidelines in the Federal Register by the United States Department of Health and Human Services.

“Qualified school” means a nonpublic elementary or secondary school in Iowa which is accredited under Iowa Code section 256.11, including a prekindergarten program for students who are five years of age by September 15 of the appropriate year, and adheres to the provisions of the federal Civil Rights Act of 1964 and Iowa Code chapter 216, and which is represented by only one school tuition organization.

“School tuition organization” means a charitable organization in Iowa that is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code and that does all of the following:

1. Allocates at least 90 percent of its annual revenue in tuition grants for children to allow them to attend a qualified school of their parents’ choice.
2. Awards tuition grants only to children who reside in Iowa.
3. Provides tuition grants to students without limiting availability to students of only one school.
4. Provides tuition grants only to eligible students.
5. Prepares an annual financial statement certified by a public accounting firm.

“Tuition grant” means a grant to a student to cover all or part of the student’s tuition at a qualified school.

42.32(2) Initial registration. In order for contributions to a school tuition organization to qualify for the credit, the school tuition organization must initially register with the department. The following information must be provided with this initial registration:

- a. Verification from the Internal Revenue Service that Section 501(c)(3) status was granted and that the school tuition organization is exempt from federal income tax.
- b. A list of all qualified schools that the school tuition organization serves.
- c. The names and addresses of all the members of the board of directors of the school tuition organization.

Once the school tuition organization is registered with the department, it is not required to subsequently register unless there is a change in the qualified schools that the organization serves. The school tuition organization must notify the department in writing of any changes in the qualified schools it serves.

42.32(3) Participation forms. Each qualified school that is served by a school tuition organization must annually submit a participation form to the department by November 1. The following information must be provided with this participation form:

- a. The certified enrollment of the qualified school as of October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday.
- b. The name of the school tuition organization that represents the qualified school.

42.32(4) Authorization to issue tax credit certificates.

a. By December 1 of each year, the department will authorize school tuition organizations to issue tax credit certificates for the following calendar year. The total amount of tax credit certificates that may be authorized is:

- (1) \$2.5 million for the 2006 calendar year,
- (2) \$5 million for the 2007 calendar year,
- (3) \$7.5 million for the 2008 through 2011 calendar years,
- (4) \$8.75 million for the 2012 and 2013 calendar years,
- (5) \$12 million for the 2014 through 2018 calendar years,
- (6) \$13 million for the 2019 calendar year,
- (7) \$15 million for the 2020 and 2021 calendar years, and
- (8) \$20 million for the 2022 calendar year and subsequent calendar years.

b. The amount of authorized tax credit certificates for each school tuition organization is determined by dividing the total amount of tax credit available by the total certified enrollment of all qualified participating schools. This result, which is the per-student tax credit, is then multiplied by the certified enrollment of each school tuition organization to determine the tax credit authorized to each school tuition organization.

EXAMPLE: For determining the authorized tax credits for the 2022 calendar year, if the certified enrollment of all qualified schools in Iowa, as provided to the department by November 1, 2021, was 40,000, the per-student tax credit would be \$500 (\$20 million ÷ 40,000). If a school tuition organization

located in Scott County represents four qualified schools with a certified enrollment of 1,400 students, the school tuition organization would be authorized to issue \$700,000 ($\$500 \times 1,400$) of tax credit certificates for the 2022 calendar year. The department would notify this school tuition organization by December 1, 2021, of the authorization to issue \$700,000 of tax credit certificates for the 2022 calendar year. This authorization would allow the school tuition organization to solicit contributions totaling \$933,333 ($\$700,000 \div 75\%$) during the 2022 calendar year which would be eligible for the tax credit.

42.32(5) Issuance of tax credit certificates.

a. The school tuition organization shall issue tax credit certificates to each taxpayer who made a cash or noncash contribution to the school tuition organization. The tax credit certificate, designed by the department, shall contain the name, address and tax identification number of the taxpayer; the amount and date that the contribution was made; the amount of the credit; the tax year that the credit may be applied; the school tuition organization to which the contribution was made; and the tax credit certificate number.

b. A tax credit certificate may be issued to a partnership, limited liability company, S corporation, estate or trust. The amount of credit claimed by an individual shall be based on the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust.

42.32(6) Claiming the tax credit. The taxpayer must include the tax credit certificate with the tax return for which the credit is claimed. The tax credit shall be claimed in the tax year during which the contribution is made. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

a. The taxpayer shall not claim an itemized deduction for charitable contributions for Iowa income tax purposes for the amount of the contribution made to the school tuition organization.

b. Married taxpayers who file separate returns or file separately on a combined return must allocate the school tuition organization tax credit to each spouse in the proportion that each spouse's respective net income bears to the total combined net income. Nonresidents or part-year residents of Iowa, including those who are claiming a tax credit of a partnership, limited liability company, S corporation, estate, or trust of which they are a member, must determine the school tuition organization tax credit in the ratio of their Iowa source net income to their total source net income. In addition, if nonresidents or part-year residents of Iowa are married and elect to file separate returns or to file separately on a combined return, the school tuition organization tax credit must be allocated between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income.

42.32(7) Reporting requirements. Each school tuition organization that issues tax credit certificates must report to the department, postmarked by January 12 of each calendar year, the following information:

a. The names and addresses of all the members of the board of directors of the school tuition organization, along with the name of the chairperson of the board.

b. The total number and dollar value of contributions received by the school tuition organization for the previous calendar year.

c. The total number and dollar value of tax credit certificates issued by the school tuition organization for the previous calendar year.

d. A list of each taxpayer who received a tax credit certificate for the previous calendar year, including the amount of the contribution and the amount of tax credit issued to each taxpayer for the previous calendar year. This list should also include the tax identification number of the taxpayer and the tax credit certificate number for each certificate.

e. The total number of children utilizing tuition grants for the school year in progress as of January 12, along with the total dollar value of the tuition grants.

f. The name and address of each qualified school represented by the school tuition organization at which tuition grants are being utilized for the school year in progress.

g. The number of tuition grant students and the total dollar value of tuition grants being utilized for the school year in progress at each qualified school served by the school tuition organization.

This rule is intended to implement Iowa Code section 422.11S.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 1102C, IAB 10/16/13, effective 11/20/13; ARC 1744C, IAB 11/26/14, effective 12/31/14; ARC 5978C, IAB 10/20/21, effective 11/24/21]

701—42.33(422) E-85 gasoline promotion tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of gasoline may claim an E-85 gasoline promotion tax credit. “E-85 gasoline” means ethanol blended gasoline formulated with a minimum percentage of between 70 percent and 85 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 135.

42.33(1) Claiming the credit.

a. *Amount of the credit.* The credit is calculated by multiplying the total number of E-85 gallons sold by the retail dealer during the tax year by the following designated rates:

Calendar years 2006, 2007, and 2008	25 cents
Calendar years 2009 and 2010	20 cents
Calendar year 2011	10 cents
Calendar years 2012 through 2024	16 cents

b. *Claiming the credit with other credits.* A taxpayer may claim the E-85 gasoline promotion tax credit even if the taxpayer also claims the ethanol blended gasoline tax credit provided in rule 701—42.20(422) for gallons sold prior to January 1, 2009, or the ethanol promotion tax credit provided in rule 701—42.39(422) for gallons sold on or after January 1, 2009, but prior to January 1, 2021, for the same tax year for the same ethanol gallons.

c. *Refundability.* Any credit in excess of the taxpayer’s tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. *Transferability.* The credit may not be transferred to any other person.

e. *Example.* A taxpayer operated one retail motor fuel site in 2008 and sold 200,000 gallons of gasoline, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer may claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold during 2008. Taxpayer is also entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this constitutes the gallons in excess of 60 percent of the total gasoline gallons sold for the 2008 tax year.

42.33(2) Fiscal year filers. For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the tax credit on the gallons of E-85 gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, 2025, a taxpayer whose tax year ends prior to December 31, 2024, may continue to claim the tax credit in the following tax year for any E-85 gallons sold through December 31, 2024. For a retail dealer whose tax year is not on a calendar-year basis and who did not claim the E-85 credit on the previous return, the dealer may claim the credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

See 701—subrule 52.30(2) for examples illustrating how this subrule is applied.

42.33(3) Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust. If a taxpayer claiming the E-85 ethanol promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro rata

share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.11O as amended by 2016 Iowa Acts, Senate File 2309.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9821B, IAB 11/2/11, effective 12/7/11; ARC 3043C, IAB 4/26/17, effective 5/31/17]

701—42.34(422) Biodiesel blended fuel tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of biodiesel blended fuel may claim a biodiesel blended fuel tax credit. “Biodiesel blended fuel” means a blend of biodiesel with petroleum-based diesel fuel that meets the standards provided in Iowa Code section 214A.2. In determining the minimum percentage by volume of biodiesel, the department will take into account reasonable variances due to testing and other limitations. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 8864.

42.34(1) Calculating the credit.

a. Gallonage requirement.

(1) Tax years beginning on or after January 1, 2006, but prior to January 1, 2009. In order for a retail dealer to qualify for the biodiesel blended fuel tax credit for tax years beginning on or after January 1, 2006, but prior to January 1, 2009, of the total gallons of diesel fuel that the retail dealer sells and dispenses during the tax year, 50 percent or more of those gallons must be biodiesel blended fuel formulated with a minimum percentage of 2 percent by volume of biodiesel. The gallonage amounts for all motor fuel sites of a retail dealer are combined when calculating this gallonage requirement.

(2) Tax years beginning on or after January 1, 2009, but prior to January 1, 2012. For tax years beginning on or after January 1, 2009, but prior to January 1, 2012, the biodiesel blended fuel tax credit is calculated separately for each retail motor fuel site for which 50 percent or more of the total gallons of diesel fuel sold at the motor fuel site was biodiesel blended fuel formulated with a minimum percentage of 2 percent by volume of biodiesel.

(3) Tax years beginning on or after January 1, 2012. For tax years beginning on or after January 1, 2012, the requirement that 50 percent of all diesel fuel gallons sold be biodiesel gallons to be eligible for the tax credit is eliminated. A retail dealer may qualify for the biodiesel blended fuel tax credit even if the number of gallons of biodiesel blended fuel sold is less than 50 percent of the total gallons of diesel fuel sold.

b. Amount of credit.

(1) Fuel sold on or after January 1, 2006, but prior to January 1, 2012. For biodiesel blended fuel sold on or after January 1, 2006, but prior to January 1, 2012, the tax credit equals three cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year. Qualifying biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel.

(2) Fuel sold on or after January 1, 2012, but prior to January 1, 2013. For biodiesel blended fuel sold on or after January 1, 2012, but prior to January 1, 2013, the tax credit equals the sum of two cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 2 percent by volume of biodiesel but less than 5 percent by volume of biodiesel plus four and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 5 percent by volume of biodiesel. In addition, the gallonage requirements described in paragraph 42.34(1) “a” do not apply to fuel sold on or after January 1, 2012.

(3) Fuel sold on or after January 1, 2013, but prior to January 1, 2018. For biodiesel blended fuel sold on or after January 1, 2013, but prior to January 1, 2018, the tax credit equals four and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 5 percent by volume of biodiesel. Diesel fuel sold that contains less than 5 percent by volume of biodiesel does not qualify for the biodiesel blended fuel tax credit.

(4) Fuel sold on or after January 1, 2018, but prior to January 1, 2025.

1. Amount of credit. For biodiesel blended fuel sold on or after January 1, 2018, but prior to January 1, 2025, the tax credit equals the sum of three and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 5 percent by volume of biodiesel but less than 11 percent by volume of biodiesel plus five and one-half cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year that have a minimum percentage of 11 percent by volume of biodiesel. Diesel fuel sold that contains less than 5 percent by volume of biodiesel does not qualify for the biodiesel blended fuel tax credit.

2. Blending errors. Where a blending error occurs and an insufficient amount of biodiesel has inadvertently been blended with petroleum-based diesel fuel so that the mixture fails to contain 11 percent by volume of biodiesel, a 1 percent tolerance applies in determining the credit amount for the blended product as described in 42.34(1) "b"(4)"2":

- If the amount of the biodiesel erroneously blended with petroleum-based diesel is at least 10 percent of the total blended product by volume, the entire blended product qualifies for the credit amount available for biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel.

- If the amount of biodiesel blended with petroleum-based diesel is at least 5 percent but less than 10 percent of the total blended product by volume, the entire blended product qualifies for the credit amount available for biodiesel blended fuel that has a minimum percentage of 5 percent by volume of biodiesel but less than 11 percent by volume of biodiesel.

- Numbered paragraph 42.34(1) "b"(4)"2" applies only if a retail dealer intends to sell and dispense biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel. If a retail dealer does not intend to sell and dispense biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel and the product sold and dispensed contains less than 11 percent biodiesel by volume, no error has occurred and the product does not qualify for the credit amount available for biodiesel blended fuel that has a minimum percentage of 11 percent by volume of biodiesel.

c. *Refundability.* Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. *Transferability.* The credit may not be transferred to any other person.

e. *Examples.*

EXAMPLE 1: A taxpayer operated four retail motor fuel sites during 2008 and sold a combined total at all four sites of 100,000 gallons of diesel fuel, of which 55,000 gallons was biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. Because 50 percent or more of the diesel fuel sold was biodiesel blended fuel, the taxpayer may claim the biodiesel blended fuel tax credit totaling \$1,650, which is 55,000 gallons multiplied by three cents.

EXAMPLE 2: A taxpayer operated two retail motor fuel sites during 2008, and each site sold 40,000 gallons of diesel fuel. One site sold 25,000 gallons of biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel, and the other site sold 10,000 gallons of biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. The taxpayer would not be eligible for the biodiesel blended fuel tax credit because only 35,000 gallons of the total 80,000 gallons, or 43.75 percent of the total diesel fuel gallons sold, was biodiesel blended fuel. The 50 percent requirement is based on the aggregate number of diesel fuel gallons sold by the taxpayer, and the fact that one retail motor fuel site met the 50 percent requirement does not allow the taxpayer to claim the biodiesel blended fuel tax credit for the 2008 tax year.

EXAMPLE 3: Same facts as in example 2, except the fuel sales occurred in 2009. The taxpayer can claim a biodiesel blended fuel tax credit totaling \$750, which is 25,000 gallons multiplied by three cents, since one of the retail motor fuel sites met the 50 percent biodiesel blended fuel requirement.

EXAMPLE 4: Same facts as in example 2, except the fuel sales occurred in 2016, and all biodiesel blended fuel sold contains a minimum percentage of 5 percent by volume of biodiesel. The taxpayer can claim a biodiesel blended fuel tax credit totaling \$1,575, which is 35,000 gallons multiplied by four and one-half cents, since the 50 percent biodiesel blended fuel requirement has been eliminated.

42.34(2) *Fiscal year filers.* Taxpayers whose tax year is not on a calendar-year basis and whose tax year ends before December 31, 2006, may compute the tax credit on the gallons of biodiesel blended fuel sold during the period from January 1, 2006, through the end of the tax year, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel. Because the tax credit is repealed on January 1, 2025, a taxpayer whose tax year ends prior to December 31, 2024, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, 2024.

See 701—subrule 52.31(2) for examples illustrating how this subrule is applied.

42.34(3) *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If a taxpayer claiming the biodiesel blended fuel tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.11P as amended by 2016 Iowa Acts, Senate File 2309.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9821B, IAB 11/2/11, effective 12/7/11; ARC 3043C, IAB 4/26/17, effective 5/31/17]

701—42.35(422) *Soy-based transformer fluid tax credit.* Effective for tax periods ending after June 30, 2006, and beginning before January 1, 2009, an electric utility may claim a soy-based transformer fluid tax credit. An electric utility, which is a public utility, city utility, or electric cooperative which furnishes electricity, may claim a credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

42.35(1) *Eligibility requirements for the tax credit.* All of the following conditions must be met for the electric utility to qualify for the soy-based transformer fluid tax credit.

- a. The costs must be incurred after June 30, 2006, and before January 1, 2009.
- b. The costs must be incurred in the first 18 months of the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.
- c. The soy-based transformer fluid must be dielectric fluid that contains at least 98 percent soy-based products.
- d. The costs of the purchase and replacement must not exceed \$2 per gallon of soy-based transformer fluid used in the transition.
- e. The number of gallons used in the transition must not exceed 20,000 gallons per electric utility, and the total number of gallons eligible for the credit must not exceed 60,000 gallons in the aggregate.
- f. The electric utility shall not deduct for Iowa income tax purposes the costs incurred in the transition to using soy-based transformer fluid which are deductible for federal income tax purposes.

42.35(2) *Applying for the tax credit.* An electric utility must apply to the department for the soy-based transformer fluid tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is claimed. The application must include the following information:

- a. A copy of the signed purchase agreement or other agreement to purchase soy-based transformer fluid.
- b. The number of gallons of soy-based transformer fluid purchased during the tax year, along with the cost per gallon of each purchase made during the tax year.
- c. The name, address, and tax identification number of the electric utility.
- d. The type of tax for which the credit will be claimed, and the first year in which the credit will be claimed.
- e. If the application is filed by a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, a list of the partners, members, shareholders or beneficiaries of the entity. This list shall include the name, address, tax identification

number and pro rata share of earnings from the entity for each of the partners, members, shareholders or beneficiaries.

42.35(3) *Claiming the tax credit.* After the application is reviewed, the department will issue a tax credit certificate to the electric utility. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. Once the tax credit certificate is issued, the credit may be claimed only against the type of tax reflected on the certificate. If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing; and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.8(17A).

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

This rule is intended to implement Iowa Code section 422.11R.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 0251C, IAB 8/8/12, effective 9/12/12]

701—42.36(16,422) Agricultural assets transfer tax credit and custom farming contract tax credit.

42.36(1) *Agricultural assets transfer tax credit.* For tax years beginning on or after January 1, 2007, but before January 1, 2013, an owner of agricultural assets that rents assets to qualified beginning farmers may claim an agricultural assets transfer tax credit for Iowa individual income tax equal to 5 percent of the rental income received by the owner for cash rental agreements and 15 percent of the rental income received by the owner for commodity share agreements. Effective for tax years beginning on or after January 1, 2013, an owner of agricultural assets that rents assets to qualified beginning farmers may claim an agricultural assets transfer tax credit for Iowa individual income tax equal to 7 percent of the rental income received by the owner for cash rental agreements and 17 percent of the rental income received by the owner for commodity share agreements.

Also effective for tax years beginning on or after January 1, 2013, if the beginning farmer is a veteran, the credit is equal to 8 percent of the rental income received by the owner for cash rental agreements, and the credit is equal to 18 percent of the rental income received by the owner for commodity share agreements for the first year that the credit is allowed. However, the taxpayer may only claim 7 percent of the rental income for cash rental agreements and 17 percent of the rental income for commodity share agreements in subsequent years if the agreement is renewed or a new agreement is executed by the same parties. The administrative rules for the agricultural assets transfer tax credit for the Iowa finance authority may be found under 265—Chapter 44.

To qualify for the tax credit, an owner of agricultural assets must enter into a lease or rental agreement with a beginning farmer for a term of at least two years, but not more than five years. Both the owner of agricultural assets and the beginning farmer must meet certain qualifications set forth by the Iowa finance authority, and the beginning farmer must be eligible to receive financial assistance under Iowa Code section 16.75.

The Iowa finance authority will issue a tax credit certificate to the owner of agricultural assets which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must include the tax credit certificate with the tax return for the tax period set forth on the certificate. The tax credit certificates will be issued on a first-come, first-served basis. For fiscal years beginning on or after July 1, 2009, but before July 1, 2013, the amount of tax credit certificates issued by the Iowa agricultural development authority for the agricultural assets transfer tax credit program cannot exceed \$6 million. For fiscal years beginning on or after July 1, 2013, the amount of the tax credit certificates issued by the Iowa finance authority for the agricultural assets transfer tax credit program cannot exceed \$8 million and the amount of the credit issued to an individual taxpayer cannot exceed \$50,000. However, effective

December 31, 2017, the amount of tax credits issued by the Iowa finance authority for the agricultural assets transfer tax credit shall revert back to \$6 million.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. However, for any agricultural assets transfer tax credits originally issued for tax years beginning on or after January 1, 2008, any credit in excess of the tax liability may be credited to the tax liability for the following ten years. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer's estate or trust upon the death of the taxpayer.

If an owner of agricultural assets is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

The lease or rental agreement may be terminated by either the owner or the beginning farmer. If the Iowa finance authority determines that the owner is not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the Iowa finance authority determines that the owner is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be recaptured, and the owner will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

42.36(2) Custom farming contract tax credit. Effective for tax years beginning on or after January 1, 2013, a landowner that hires a beginning farmer to custom farm agricultural land in this state may claim a custom farming contract tax credit for Iowa individual income tax. The credit is equal to 7 percent of the value of the contract. If the beginning farmer is a veteran, the credit is equal to 8 percent of the value of the contract for the first year. However, the taxpayer may only claim 7 percent of the value of the contract in subsequent years if the agreement is renewed or a new agreement is executed by the same parties. The administrative rules for the custom farming contract tax credit for the Iowa finance authority may be found under 265—Chapter 44.

To qualify for the tax credit, the taxpayer must enter into a lease or rental agreement with a beginning farmer for a term of at least two years but not more than five years. Both the taxpayer and the beginning farmer must meet certain qualifications set forth by the Iowa finance authority, and the beginning farmer must be eligible to receive financial assistance under Iowa Code section 16.75.

The Iowa finance authority will issue a tax credit certificate to the taxpayer which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must include the tax credit certificate with the tax return for the tax period set forth on the certificate. For fiscal years beginning on or after July 1, 2013, the amount of tax credit certificates issued by the Iowa finance authority for the custom farming contract tax credit program cannot exceed \$4 million, and the credit certificates will be issued on a first-come, first-served basis. The amount of the credit issued to an individual taxpayer cannot exceed \$50,000. However, effective December 31, 2017, the Iowa finance authority will no longer issue custom farming contract tax credits.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer's estate or trust upon the death of the taxpayer.

If the party entering into the custom farming contract with the beginning farmer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

The custom farming contract may be terminated by either the taxpayer or the beginning farmer. If the Iowa finance authority determines that the taxpayer is not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will

be allowed. If the Iowa finance authority determines that the taxpayer is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be recaptured, and the taxpayer will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

This rule is intended to implement Iowa Code section 422.11M; 2014 Iowa Acts, Senate File 2328, sections 60 and 61, as amended by 2014 Iowa Acts, House File 2454; and 2014 Iowa Acts, Senate File 2328, sections 120 and 122.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 1138C, IAB 10/30/13, effective 12/4/13; ARC 1665C, IAB 10/15/14, effective 11/19/14]

701—42.37(15,422) Film qualified expenditure tax credit. Effective for tax years beginning on or after January 1, 2007, a film qualified expenditure tax credit is available for individual income tax. The tax credit cannot exceed 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The film office may negotiate the amount of the tax credit. The administrative rules for the film qualified expenditure tax credit for IDED may be found at 261—Chapter 36.

42.37(1) *Qualified expenditures.* A qualified expenditure is a payment to an Iowa resident or an Iowa-based business for the sale, rental or furnishing of tangible personal property or services directly related to the registered project. The qualified expenditures include, but are not limited to, the following:

1. Aircraft.
2. Vehicles.
3. Equipment.
4. Materials.
5. Supplies.
6. Accounting services.
7. Animals and animal care services.
8. Artistic and design services.
9. Graphics.
10. Construction.
11. Data and information services.
12. Delivery and pickup services.
13. Labor and personnel. For limitations on the amount of labor and personnel expenditures, see Iowa department of economic development 261—paragraph 36.7(2) “b.”
14. Lighting services.
15. Makeup and hairdressing services.
16. Film.
17. Music.
18. Photography.
19. Sound.
20. Video and related services.
21. Printing.
22. Research.
23. Site fees and rental.
24. Travel related to Iowa distant locations.
25. Trash removal and cleanup.
26. Wardrobe.

A detailed list of all qualified expenditures for each of these categories is available from the film office of IDED.

42.37(2) *Claiming the tax credit.* Upon completion of the registered project in Iowa, the taxpayer must submit, in a format approved by IDED prior to production, a listing of the qualified expenditures. Upon verification of the qualified expenditures, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project

completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on each partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for five years or until the tax credit is used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the year in which the taxpayer claimed the tax credit.

42.37(3) *Transfer of the film qualified expenditure tax credit.* The film qualified expenditure tax credit may be transferred no more than two times to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the film qualified expenditure tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

42.37(4) *Repeal of film qualified expenditure tax credit.* The film qualified expenditure tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

This rule is intended to implement 2012 Iowa Acts, House File 2337, sections 38 to 40.
[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 0398C, IAB 10/17/12, effective 11/21/12; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.38(15,422) Film investment tax credit. Effective for tax years beginning on or after January 1, 2007, a film investment tax credit is available for individual income tax. The tax credit cannot exceed 25 percent of the taxpayer's investment in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The film office may negotiate the amount of the tax credit. The administrative rules for the film investment tax credit for IDED may be found at 261—Chapter 36.

42.38(1) *Claiming the tax credit.* Upon completion of the project in Iowa and verification of the investment in the project, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners,

members, shareholders or beneficiaries based on each partner's, member's, shareholder's or beneficiary's pro rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for five years or until the tax credit is used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the year in which the taxpayer claimed the tax credit. In addition, a taxpayer cannot claim the film investment tax credit for qualified expenditures for which the film expenditure tax credit set forth in rule 701—42.37(15,422) is claimed.

The total of all film investment tax credits for a particular project cannot exceed 25 percent of the qualified expenditures as set forth in subrule 42.37(1) for the particular project. If the amount of investment exceeds the qualified expenditures, the tax credit will be allocated proportionately. For example, if three investors each invested \$100,000 in a project but the qualified expenditures in Iowa only totaled \$270,000, each investor would receive a tax credit based on a \$90,000 investment amount.

42.38(2) *Transfer of the film investment tax credit.* The film investment tax credit may be transferred no more than two times to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the film investment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

42.38(3) *Repeal of film investment tax credit.* The film investment tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

This rule is intended to implement 2012 Iowa Acts, House File 2337, sections 38 to 40.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 0398C, IAB 10/17/12, effective 11/21/12; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.39(422) *Ethanol promotion tax credit.* Effective for tax years beginning on or after January 1, 2009, a retail dealer of gasoline may claim an ethanol promotion tax credit. For purposes of this rule, tank wagon sales are considered retail sales. The ethanol promotion tax credit is computed on Form IA 137.

42.39(1) *Definitions.* The following definitions are applicable to this rule:

“Biodiesel gallonage” means the total number of gallons of biodiesel which the retail dealer sells from motor fuel pumps during a determination period. For example, 5,000 gallons of biodiesel blended fuel with a 2 percent by volume of biodiesel sold during a determination period results in a biodiesel gallonage of 100 (5,000 times 2%).

“Biofuel distribution percentage” means the sum of the retail dealer’s total ethanol gallonage plus the retail dealer’s total biodiesel gallonage expressed as a percentage of the retail dealer’s total gasoline gallonage.

“Biofuel threshold percentage” is dependent on the aggregate number of gallons of motor fuel sold by a retail dealer during a determination period, as set forth below:

Determination Period	More than 200,000 Gallons Sold by Retail Dealer	200,000 Gallons or Less Sold by Retail Dealer
2009	10%	6%
2010	11%	6%
2011	12%	10%
2012	13%	11%
2013	14%	12%
2014	15%	13%
2015	17%	14%
2016	19%	15%
2017	21%	17%
2018	23%	19%
2019	25%	21%
2020	25%	25%

“Biofuel threshold percentage disparity” means the positive percentage difference between the retail dealer’s biofuel threshold percentage and the retail dealer’s biofuel distribution percentage. For example, if a retail dealer that sells more than 200,000 gallons of motor fuel in 2009 has a biofuel distribution percentage of 8 percent, the biofuel threshold percentage disparity equals 2 percent (10% minus 8%).

“Determination period” means any 12-month period beginning on January 1 and ending on December 31.

“Ethanol gallonage” means the total number of gallons of ethanol which the retail dealer sells from motor fuel pumps during a determination period. For example, 10,000 gallons of ethanol blended gasoline formulated with a 10 percent by volume of ethanol sold during a determination period results in an ethanol gallonage of 1,000 (10,000 gallons times 10%).

“Gasoline gallonage” means the total number of gallons of gasoline sold by the retail dealer during a determination period.

42.39(2) Calculation of tax credit.

a. The tax credit is calculated by multiplying the retail dealer’s total ethanol gallonage by the tax credit rate, which is adjusted based upon the retail dealer’s biofuel threshold percentage disparity. The tax credit rate is set forth below:

Biofuel Threshold Percentage Disparity	Tax Credit Rate per Gallon 2009-2010	Tax Credit Rate per Gallon 2011	Tax Credit Rate per Gallon 2012-2020
0%	6.5 cents	8 cents	8 cents
0.01% to 2.00%	4.5 cents	6 cents	6 cents
2.01% to 4.00%	2.5 cents	2.5 cents	4 cents
4.01% or more	0 cents	0 cents	0 cents

b. For use in calculating a retail dealer’s total ethanol gallonage, the department is required to establish a schedule regarding the average amount of ethanol contained in E-85 gasoline.

c. A taxpayer may claim the ethanol promotion tax credit even if the taxpayer also claims the E-85 gasoline promotion tax credit provided in rule 701—42.33(422) or the E-15 plus gasoline promotion tax credit provided in rule 701—42.46(422) for the same tax year for the same ethanol gallons.

d. The tax credit must be calculated separately for each retail motor fuel site operated by the taxpayer for tax years beginning prior to January 1, 2011. The biofuel threshold percentage disparity of the taxpayer is computed on a statewide basis based on the total ethanol gallonage sold in Iowa. The taxpayer must determine the ethanol gallonage sold at each retail motor fuel site and multiply this ethanol gallonage by the applicable tax credit rate based on the biofuel threshold percentage disparity to calculate the ethanol promotion tax credit.

e. For tax years beginning on or after January 1, 2011, the taxpayer may elect to compute the biofuel threshold percentage disparity and the tax credit on either a site-by-site basis or on a companywide basis. The election made on the first return beginning on or after January 1, 2011, for either the site-by-site method or the companywide method is binding on the taxpayer for subsequent tax years unless the taxpayer petitions the department for a change in the method. Any petition for a change in the method should be made within a reasonable period of time prior to the due date of the return for which the change is requested. For example, if a change is requested for the tax return beginning January 1, 2012, the petition should be made by January 31, 2013, which is 90 days prior to the due date of the return.

The mere fact that a change in the method will result in a larger tax credit for subsequent years is not, of itself, sufficient grounds for changing the method for computing the credit. An example of a case for which the department may grant a change in the method is if the taxpayer has a significant change in the type of fuel sold at the taxpayer's retail sites in Iowa. For example, if a retail dealer opted to start selling E-85 gasoline at all the taxpayer's retail sites in Iowa for a subsequent tax year, the department may grant a change in the method.

If a taxpayer chooses the site-by-site method to compute the biofuel threshold percentage disparity, the gallons sold at all sites in Iowa must be considered in determining if the biofuel threshold percentage as defined in subrule 42.39(1) is based on more than 200,000 gallons or on 200,000 gallons or less. For example, if a taxpayer operates three motor fuel sites in Iowa and each site sells 80,000 gallons of motor fuel during 2011, the biofuel threshold percentage of 12 percent must be used for each retail site if the tax credit is computed on a site-by-site basis, even though each retail site sold less than 200,000 gallons of motor fuel.

f. Any tax credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

42.39(3) Fiscal year filers. For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the ethanol promotion tax credit on the total ethanol gallonage sold during the year using the designated tax credit rates as shown in subrule 42.39(2), paragraph "a." Because the tax credit is repealed on January 1, 2021, a taxpayer whose tax year ends prior to December 31, 2020, may continue to claim the tax credit in the following tax year for the total ethanol gallonage sold through December 31, 2020. A taxpayer whose tax year is not on a calendar-year basis and that did not claim the ethanol promotion tax credit on the previous return may claim the tax credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

42.39(4) Allocation of tax credit to owners of a business entity. If a taxpayer claiming the ethanol promotion tax credit is a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by the individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate, or trust.

42.39(5) Examples. The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1. A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2009 equals 100,000 gallons. This consisted of 5,000 gallons of E-85 gasoline, 80,000 gallons of E-10 (10% ethanol blended gasoline) and 15,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold at this site during 2009 15,000 gallons of diesel fuel, of which 5,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 11,950 (5,000 E-85 gallons times 79% equals 3,950; 80,000 E-10 gallons times 10% equals 8,000; and thus 3,950 plus 8,000 equals 11,950). The biodiesel gallonage sold is 100, or 5,000 times 2%. The sum of 11,950 and 100, or 12,050, is divided by the total gasoline

gallage of 100,000 to arrive at a biofuel distribution percentage of 12.05%. Since this percentage exceeds the biofuel threshold percentage of 6% for a retail dealer selling 200,000 gallons or less, the biofuel threshold disparity percentage is 0%. This calculation results in an ethanol promotion tax credit of 6.5 cents times 11,950, or \$776.75.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 5,000 gallons, or \$1,000.

EXAMPLE 2. A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2010 equals 300,000 gallons which consisted of 10,000 gallons of E-85 gasoline, 230,000 gallons of E-10 (10% ethanol blended gasoline) and 60,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold 60,000 gallons of diesel fuel at this site during 2010, of which 25,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 30,900 (10,000 E-85 gallons times 79% equals 7,900; 230,000 E-10 gallons times 10% equals 23,000; and thus 7,900 plus 23,000 equals 30,900). The biodiesel gallonage sold is 500, or 25,000 times 2%. The sum of 30,900 and 500, or 31,400, is divided by the total gasoline gallonage of 300,000 to arrive at a biofuel distribution percentage of 10.47%. Since this is less than the biofuel threshold percentage of 11% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity percentage is .53%. This calculation results in an ethanol promotion tax credit of 4.5 cents times 30,900, or \$1,390.50.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 10,000 gallons, or \$2,000.

EXAMPLE 3. A taxpayer that is a retail dealer of gasoline operates three motor fuel sites in Iowa during 2009, and each site sold 80,000 gallons of gasoline. Sites A and B each sold 70,000 gallons of E-10 (10% ethanol blended gasoline) and 10,000 gallons not containing ethanol. Site C sold 60,000 gallons of E-10, 10,000 gallons of E-85, and 10,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The retail dealer did not sell any diesel fuel at any of the motor fuel sites. The ethanol gallonage is 27,900, as shown below:

Site A – 70,000 times 10% equals	7,000
Site B – 70,000 times 10% equals	7,000
Site C – 60,000 times 10% equals	6,000
Site C – 10,000 times 79% equals	7,900
Total	<u>27,900</u>

The ethanol gallonage of 27,900 is divided by the gasoline gallonage of 240,000 to arrive at a biofuel distribution percentage of 11.63%. Since this exceeds the biofuel threshold percentage of 10% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity percentage is 0%. The credit is computed separately for each motor fuel site, and the ethanol promotion credit equals \$1,813.50, as shown below:

Site A – 7,000 times 6.5 cents equals	\$455.00
Site B – 7,000 times 6.5 cents equals	\$455.00
Site C – 13,900 times 6.5 cents equals	<u>\$903.50</u>
Total	\$1,813.50

Since the biofuel distribution percentage and the biofuel threshold percentage disparity are computed on a statewide basis for all gallons sold in Iowa, the 6.5 cent tax credit rate is applied to the total ethanol gallonage, even if Sites A and B did not meet the biofuel threshold percentage of 10% for 2009.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 10,000 gallons, or \$2,000.

EXAMPLE 4. A taxpayer that is a retail dealer of gasoline has a fiscal year ending March 31, 2011, and operates one motor fuel site in Iowa. The taxpayer sold more than 200,000 gallons of gasoline during the 2010 calendar year and expects to sell more than 200,000 gallons of gasoline during the 2011 calendar

year. The ethanol gallonage is 30,000 for the period from April 1, 2010, through December 31, 2010, and the ethanol gallonage is 8,000 for the period from January 1, 2011, through March 31, 2011. The biofuel distribution percentage is 11.5% for the period from April 1, 2010, through December 31, 2010, and the biofuel distribution percentage is 11.8% for the period from January 1, 2011, through March 31, 2011. This results in a biofuel threshold percentage disparity of 0% (11.0 minus 11.5) for the period from April 1, 2010, through December 31, 2010, and a biofuel threshold percentage disparity of .2% (12.0 minus 11.8) for the period from January 1, 2011, through March 31, 2011. The taxpayer is entitled to an ethanol promotion tax credit of \$2,310 for the fiscal year ending March 31, 2011, as shown below:

30,000 times 6.5 cents equals	\$1,950
8,000 times 4.5 cents equals	360
Total	<u>\$2,310</u>

EXAMPLE 5. A taxpayer that is a retail dealer of gasoline has a fiscal year ending April 30, 2009, and operates one motor fuel site in Iowa. The taxpayer expects to sell more than 200,000 gallons of gasoline during the 2009 calendar year. The ethanol gallonage is 50,000 gallons for the period from January 1, 2009, through April 30, 2009. The biofuel distribution percentage is 7.7% for the period from January 1, 2009, through April 30, 2009, which results in a biofuel threshold percentage disparity of 2.3% (10.0 minus 7.7). The taxpayer is entitled to claim an ethanol promotion tax credit of \$1,250 (50,000 gallons times 2.5 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2009.

In lieu of claiming the credit on the return for the period ending April 30, 2009, the taxpayer may claim the ethanol promotion tax credit on the tax return for the period ending April 30, 2010, including the ethanol gallonage for the period from January 1, 2009, through April 30, 2010. In this case, the taxpayer will compute the biofuel distribution percentage for the period from January 1, 2009, through December 31, 2009, to determine the proper tax credit rate to be applied to the ethanol gallonage for the period from January 1, 2009, through December 31, 2009.

EXAMPLE 6. Assume the same facts as Example 3, except that the gallons were sold in 2011. The taxpayer chose the companywide method to compute the biofuel threshold percentage disparity and the tax credit. The biofuel distribution percentage is 11.63%, and since the biofuel threshold percentage is 12% for retailers selling more than 200,000 gallons of motor fuel, the biofuel threshold percentage disparity is 0.37%. This results in an ethanol promotion tax credit on a companywide basis of 6 cents multiplied by the ethanol gallonage of 27,900 or \$1,674.

EXAMPLE 7. Assume the same facts as Example 3, except that the gallons were sold in 2011. The taxpayer chose the site-by-site method to compute the biofuel threshold percentage disparity and the tax credit. The biofuel threshold percentage is still 12% since the retailer sold more than 200,000 gallons of motor fuel at all sites in Iowa. The biofuel distribution percentage for Site A and Site B is 7,000 divided by 80,000, or 8.75%. The biofuel threshold percentage disparity for Site A and Site B is 3.25%, or 12% less than 8.75%. The biofuel distribution percentage for Site C is 13,900 divided by 80,000, or 17.38%. The biofuel threshold percentage disparity for Site C is 0% since the biofuel distribution percentage exceeds the biofuel threshold percentage. This results in an ethanol promotion tax credit on a site-by-site basis of \$1,462, as shown below:

Site A – 7,000 times 2.5 cents equals	\$175
Site B – 7,000 times 2.5 cents equals	\$175
Site C – 13,900 times 8 cents equals	<u>\$1,112</u>
Total	\$1,462

This rule is intended to implement Iowa Code section 422.11N as amended by 2011 Iowa Acts, Senate File 531.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9821B, IAB 11/2/11, effective 12/7/11]

701—42.40(422) Charitable conservation contribution tax credit. Effective for tax years beginning on or after January 1, 2008, a charitable conservation contribution tax credit is available for individual income tax which is equal to 50 percent of the fair market value of a qualified real property interest located in Iowa that is conveyed as an unconditional charitable donation in perpetuity by a taxpayer to a qualified organization exclusively for conservation purposes.

42.40(1) Definitions. The following definitions are applicable to this rule:

“*Conservation purpose*” means the same as defined in Section 170(h)(4) of the Internal Revenue Code, with the exception that a conveyance of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits is not considered a conveyance for a conservation purpose.

“*Qualified organization*” means the same as defined in Section 170(h)(3) of the Internal Revenue Code.

“*Qualified real property interest*” means the same as defined in Section 170(h)(2) of the Internal Revenue Code. Conservation easements and bargain sales are examples of a qualified real property interest.

42.40(2) Computation of the credit. The credit equals 50 percent of the fair market value of the qualified real property interest. There are numerous federal revenue regulations, rulings, court cases and other provisions relating to the determination of the value of a qualified real property interest, and these are equally applicable in determining the amount of the charitable conservation contribution tax credit.

The maximum amount of the tax credit is \$100,000. The amount of the contribution for which the tax credit is claimed shall not be claimed as an itemized deduction for charitable contributions for Iowa income tax purposes.

42.40(3) Claiming the tax credit. The tax credit is claimed on Form IA 148, Tax Credits Schedule. The taxpayer must include a copy of federal Form 8283, Noncash Charitable Contributions, which reflects the calculation of the fair market value of the real property interest, with the Iowa return for the year in which the contribution is made. If a qualified appraisal of the property or other relevant information is required to be included with federal Form 8283 for federal tax purposes, the appraisal and other relevant information must also be included with the Iowa return.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following 20 years or until used, whichever is the earlier.

If the taxpayer claiming the credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro rata share of the individual’s earnings of the partnership, limited liability company, S corporation, or estate or trust.

42.40(4) Examples. The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: A taxpayer conveys a real property interest with a fair market value of \$150,000 to a qualified organization during 2008. The tax credit is equal to \$75,000, or 50 percent of the \$150,000 fair market value of the real property. The taxpayer cannot claim the \$150,000 as an itemized deduction for charitable contributions on the Iowa individual income tax return for 2008.

EXAMPLE 2: A taxpayer conveys a real property interest with a fair market value of \$500,000 to a qualified organization during 2009. The tax credit is limited to \$100,000, which equates to \$200,000 of the contribution being eligible for the tax credit. The remaining amount of \$300,000 (\$500,000 less \$200,000) can be claimed as an itemized deduction for charitable contributions on the Iowa individual income tax return for 2009.

This rule is intended to implement Iowa Code section 422.11W.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.41(15,422) Redevelopment tax credit. The economic development authority is authorized by the general assembly and the governor to oversee the implementation and administration of the redevelopment tax credit program. Effective for tax years beginning on or after July 1, 2009, a taxpayer whose project has been approved by the Iowa brownfield redevelopment advisory council and the economic development authority may claim a redevelopment tax credit once the taxpayer has been

issued a tax credit certificate for the project by the economic development authority. The credit is based on the taxpayer's qualifying investment in a brownfield or grayfield site. The administrative rules for the economic development authority's administration of this program, including definitions of brownfield and grayfield sites, may be found in rules 261—65.11(15) and 261—65.12(15).

42.41(1) *Eligibility for the credit.* The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For more information, see Iowa Administrative Code 261—Chapter 65.

42.41(2) *Amount of the credit.*

a. Maximum credit total. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed is \$1 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$100,000. For the fiscal year beginning July 1, 2011, the maximum amount of tax credit allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million. For the fiscal year beginning July 1, 2013, and for each subsequent fiscal year, the maximum amount of tax credits issued by the authority shall be an amount determined by the economic development authority board but not in excess of the amount established pursuant to Iowa Code section 15.119.

b. Maximum credit per project. The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed 10 percent of the maximum amount of tax credits available in any one fiscal year pursuant to paragraph 42.41(2)“a.”

c. Percentage computation. The amount of the tax credit shall equal one of the following:

- (1) Twelve percent of the taxpayer's qualifying investment in a grayfield site.
- (2) Fifteen percent of the taxpayer's qualifying investment in a grayfield site if the qualifying redevelopment project meets the requirements of green development as defined in rule 261—65.2(15).
- (3) Twenty-four percent of the taxpayer's qualifying investment in a brownfield site.
- (4) Thirty percent of the taxpayer's qualifying investment in a brownfield site if the qualifying redevelopment project meets the requirements of green development as defined in rule 261—65.2(15).

42.41(3) *Claiming the credit.*

a. Certificate issuance. Upon completion of the project, the economic development authority will issue a tax credit certificate to the taxpayer. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit, the tax year for which the credit may be claimed and the tax credit certificate number. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.41(4). To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate.

b. Pro rata share. If a taxpayer claiming the tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

c. Carryforward. Except as provided in paragraph 42.41(3)“d,” any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit.

d. Refundability. A tax credit in excess of the taxpayer's liability for the tax year is refundable if all of the conditions of economic development authority 261—paragraph 65.11(4)“b” are met.

42.41(4) *Transfer of the credit.* The redevelopment tax credit can be transferred to any person or entity. However, a certificate indicating that the credit is refundable is only transferrable to the extent permitted by economic development authority 261—paragraph 65.11(4)“b.”

a. Submission of transferred tax credit certificate to the department—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred, the amount of all consideration provided in exchange for the tax credit, and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the transferee shall describe the nature of nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee.

c. Claiming the transferred tax credit. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate. The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes.

42.41(5) Basis reduction of the redevelopment property. The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled \$100,000 for which a \$12,000 redevelopment tax credit was issued, the increase in the basis of the property would total \$88,000 for Iowa tax purposes (\$100,000 less \$12,000).

This rule is intended to implement Iowa Code sections 15.293A, 422.11V and 15.119.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 1102C, IAB 10/16/13, effective 11/20/13; ARC 1949C, IAB 4/1/15, effective 5/6/15]

701—42.42(15) High quality jobs program. Effective for tax periods beginning on or after July 1, 2009, a business which qualifies under the high quality jobs program is eligible to receive tax credits. The high quality jobs program replaces the high quality job creation program. An eligible business under the high quality jobs program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code section 15.329. The tax credits available under the high quality jobs program are based upon the number of jobs created or retained that pay a qualifying wage threshold and the amount of qualifying investment. The administrative rules for the high quality jobs program for the Iowa department of economic development may be found at 261—Chapter 68.

42.42(1) Research activities credit. An eligible business approved under the high quality jobs program is eligible for an additional research activities credit as described in 701—subrule 52.7(4) for awards issued by the Iowa department of economic development prior to July 1, 2010. The eligible business is eligible for the research activities credit as described in 701—subrule 52.7(6) for awards issued by the Iowa department of economic development on or after July 1, 2010.

Research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate generating capacity. The research activities credit related to renewable energy generation components under the high quality jobs program and the enterprise zone program shall not exceed \$2 million for the fiscal year ending June 30, 2010, and \$1 million for the fiscal year ending June 30, 2011.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in this subrule and in 701—subrule 52.7(5) for businesses in enterprise zones, and are not applicable to the research activities credit set forth in subrule 42.11(3), paragraphs “a” and “b.”

42.42(2) *Investment tax credit.* An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created or retained by the location or expansion of an eligible business. The percentage is equal to the amount provided in Iowa department of economic development 261—subrule 68.4(7).

The determination of the new investment eligible for the investment tax credit, the eligibility of a refundable investment tax credit for value-added agricultural product or biotechnology-related projects and the repayment of investment tax credits for the high quality jobs program is the same as set forth in subrule 42.29(2) for the high quality job creation program.

42.42(3) *Repayment of benefits.* If an eligible business fails to maintain the requirements of the high quality jobs program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure of the eligible business to maintain the requirements of the high quality jobs program because the repayment is a recovery of an incentive, rather than an adjustment to the taxpayer’s tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.*, Docket No. 11DORF 042-044, June 11, 2012.

This rule is intended to implement Iowa Code chapter 15.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9104B, IAB 9/22/10, effective 10/27/10; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.43(16,422) Disaster recovery housing project tax credit. For tax years beginning on or after January 1, 2011, but before January 1, 2015, a disaster recovery housing project tax credit is available for individual income tax. The credit is equal to 75 percent of the taxpayer’s qualifying investment in a disaster recovery housing project, and is administered by the Iowa finance authority. Qualifying investments are costs incurred on or after May 12, 2009, and prior to July 1, 2010, related to a disaster recovery housing project. Eligible properties must have applied for and received an allocation of federal low-income housing tax credits under Section 42 of the Internal Revenue Code to be eligible for the tax credit. The tax credit is repealed effective January 1, 2015.

42.43(1) *Issuance of tax credit certificates.* Upon completion of the project and verification of the amount of investment made in the disaster recovery housing project, the Iowa finance authority will issue a tax credit certificate to the taxpayer. The tax credit certificate shall include the taxpayer’s name, address, tax identification number, amount of credit, and the tax year for which the credit may be claimed. The tax credit certificates will be issued on a first-come, first-served basis. The tax credit cannot be transferred to any person or entity.

42.43(2) *Limitation of tax credits.* The tax credit shall not exceed 75 percent of the taxpayer's qualifying investment in a disaster recovery housing project. The maximum amount of tax credits issued by the Iowa finance authority shall not exceed \$3 million in each of the five consecutive years beginning in the 2011 calendar year. A tax credit certificate shall be issued by the Iowa finance authority for each year that the credit can be claimed.

42.43(3) *Claiming the tax credit.* The amount of the tax credit earned by the taxpayer will be divided by five and an amount equal thereto will be claimed on the Iowa individual income tax return commencing with the tax year beginning on or after January 1, 2011. A taxpayer is not entitled to a refund of the excess tax for any tax credit in excess of the tax liability, and also is not entitled to carry forward any excess credit to a subsequent tax year.

If the taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

The increase in the basis of the property that would otherwise result from the disaster recovery housing investment shall be reduced by the amount of the tax credit allowed.

EXAMPLE: An individual whose tax year ends on December 31 incurs \$100,000 of costs related to an eligible disaster recovery housing project. The taxpayer receives a tax credit of \$75,000, and \$15,000 of credit can be claimed on each Iowa individual income tax return for the periods ending December 31, 2011, through December 31, 2015. If the tax liability for the individual for the period ending December 31, 2011, is \$10,000, the credit is limited to \$10,000, and the remaining \$5,000 credit cannot be used. If the tax liability for the individual for the period ending December 31, 2012, is \$25,000, the credit is limited to \$15,000, and the remaining \$5,000 credit from 2011 cannot be used to reduce the tax for 2012.

42.43(4) *Potential recapture of tax credits.* If the taxpayer fails to comply with the eligibility requirements of the project or violates local zoning and construction ordinances, the Iowa finance authority can void the tax credit and the department of revenue shall seek recovery of the value of any tax credit claimed on an individual income tax return.

This rule is intended to implement Iowa Code sections 16.211, 16.212 and 422.11X as amended by 2014 Iowa Acts, Senate File 2328.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 1665C, IAB 10/15/14, effective 11/19/14]

701—42.44(422) Deduction of credits.

42.44(1) *Sequencing of credit deductions.* The credits against computed tax set forth in Iowa Code sections 422.5, 422.8, 422.10 through 422.12C, 422.12N, and 422.110 shall be claimed in the following sequence:

- a. Personal exemption credit.
- b. Tuition and textbook credit.
- c. Volunteer fire fighter, volunteer emergency medical services personnel and reserve peace officer tax credit.
- d. Nonresident and part-year resident credit.
- e. Out-of-state tax credit.
- f. Franchise tax credit.
- g. S corporation apportionment credit.
- h. Alternative minimum tax credit (for tax years beginning during 2023 only).
- i. Historic preservation tax credit (when the taxpayer has elected that the credit be nonrefundable under Iowa Code section 404A.2(4)).
- j. School tuition organization tax credit.
- k. Innovation fund investment tax credit.
- l. Endow Iowa tax credit.
- m. Redevelopment tax credit.
- n. From farm to food donation tax credit.
- o. Workforce housing tax credit.

- p.* Hoover presidential library tax credit.
- q.* Enterprise zone investment tax credit.
- r.* High quality jobs investment tax credit.
- s.* Wind energy production tax credit.
- t.* Renewable energy tax credit.
- u.* New jobs tax credit.
- v.* Beginning farmer tax credit.
- w.* Agricultural assets transfer tax credit.
- x.* Custom farming contract tax credit.
- y.* Geothermal heat pump tax credit.
- z.* Solar energy system tax credit.
- aa.* Charitable conservation contribution tax credit.
- ab.* Alternative minimum tax credit (for tax years beginning before January 1, 2023).
- ac.* Historic preservation tax credit (when the taxpayer has elected that the credit be refundable under Iowa Code section 404A.2(4)).
- ad.* High quality jobs third-party developer tax credit.
- ae.* Research activities credit.
- af.* Child and dependent care tax credit or early childhood development tax credit.
- ag.* Motor fuel tax credit.
- ah.* Claim of right credit (if elected in accordance with rule 701—38.18(422)).
- ai.* Qualifying business investment tax credit (also known as angel investor tax credit).
- aj.* Adoption tax credit.
- ak.* E-85 gasoline promotion tax credit.
- al.* Biodiesel blended fuel tax credit.
- am.* E-15 plus gasoline promotion tax credit.
- an.* Earned income tax credit.
- ao.* Renewable chemical production tax credit.
- ap.* Estimated payments, payment with vouchers, and withholding tax.

42.44(2) Order of credits carried forward from a previous tax year. A credit carried forward from a previous tax year shall be applied against computed tax before a credit earned under the same credit program in the current tax year. However, a credit carried forward from a previous tax year cannot be applied against computed tax before a credit earned under a different credit program in a later year that appears before it in the sequence in subrule 42.44(1). For example, a school tuition organization tax credit awarded in the current tax year must be applied against computed tax before a renewable energy tax credit carried forward from a previous tax year.

This rule is intended to implement Iowa Code sections 422.5, 422.8, 422.10, 422.11, 422.11A, 422.11B, 422.11D, 422.11E, 422.11F, 422.11H, 422.11I, 422.11J, 422.11L, 422.11M, 422.11N, 422.11O, 422.11P, 422.11Q, 422.11R, 422.11S, 422.11V, 422.11W, 422.11Y, 422.11Z, 422.12, 422.12B, 422.12C and 422.110 and 2014 Iowa Acts, House Files 2448 and 2468.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 0398C, IAB 10/17/12, effective 11/21/12; ARC 1303C, IAB 2/5/14, effective 3/12/14; ARC 1744C, IAB 11/26/14, effective 12/31/14; ARC 6030C, IAB 11/3/21, effective 12/8/21]

701—42.45(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal year beginning July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2012, awards made under these economic development programs cannot exceed \$120 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2012, awards made under these economic development programs cannot exceed \$170 million. For fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2014, these programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the high quality jobs program, the redevelopment tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the innovation fund

tax credit program. For fiscal years beginning on or after July 1, 2014, these programs include the assistive device tax credit program, the workforce housing tax incentives program, the high quality jobs program, the redevelopment tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the innovation fund tax credit program. The administrative rules for the aggregate tax credit limit for the economic development authority may be found at 261—Chapter 76.

This rule is intended to implement Iowa Code section 15.119 as amended by 2014 Iowa Acts, House File 2448.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9104B, IAB 9/22/10, effective 10/27/10; ARC 1102C, IAB 10/16/13, effective 11/20/13; ARC 1744C, IAB 11/26/14, effective 12/31/14]

701—42.46(422) E-15 plus gasoline promotion tax credit. Effective for eligible gallons sold on or after July 1, 2011, a retail dealer of gasoline may claim an E-15 plus gasoline promotion tax credit. “E-15 plus gasoline” means ethanol blended gasoline formulated with a minimum percentage of between 15 percent and 69 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA 138.

42.46(1) Calculating the credit.

a. Amount of credit. The tax credit is calculated by multiplying the total number of E-15 plus gallons sold by the retail dealer during the tax year by the following designated rates:

Gallons sold from July 1, 2011, through December 31, 2013	3 cents
Gallons sold from January 1 through May 31 and from September 16 through December 31 for the 2014-2024 calendar years	3 cents
Gallons sold from June 1 through September 15 for the 2014-2024 calendar years	10 cents

b. Claiming the credit with other credits. A taxpayer may claim the E-15 plus gasoline promotion tax credit even if the taxpayer also claims the ethanol promotion tax credit provided in rule 701—42.39(422) for gallons sold on or after January 1, 2011, but prior to January 1, 2021, for the same tax year for the same ethanol gallons.

c. Refundability. Any credit in excess of the taxpayer’s tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

d. Transferability. The credit may not be transferred to any other person.

42.46(2) Fiscal year filers. For taxpayers whose tax year is not on a calendar-year basis, the taxpayer may compute the tax credit on the gallons of E-15 plus gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, 2025, a taxpayer whose tax year ends prior to December 31, 2024, may continue to claim the tax credit in the following tax year for any E-15 plus gallons sold through December 31, 2024. For a retail dealer whose tax year is not on a calendar-year basis and who did not claim the E-15 plus credit on the previous return, the dealer may claim the credit for the current tax year for gallons sold for the period beginning on July 1 of the previous tax year until the last day of the previous tax year. However, for taxpayers whose fiscal year ends prior to December 31, 2011, the dealer must claim the credit for the current tax year for gallons sold for the period beginning on July 1 of the previous tax year until the last day of the previous tax year.

EXAMPLE 1: A taxpayer who is a retail dealer of gasoline has a fiscal year ending October 31, 2011. The taxpayer sold 2,000 gallons of E-15 plus gasoline for the period from July 1, 2011, through October 31, 2011, and sold 7,000 gallons of E-15 plus gasoline for the period from November 1, 2011, through October 31, 2012. The taxpayer is entitled to a total E-15 plus gasoline promotion tax credit of \$270 for the fiscal year ending October 31, 2012, which consists of a \$60 credit (2,000 gallons multiplied by 3 cents) for the period from July 1, 2011, through October 31, 2011, and a credit of \$210 (7,000 gallons multiplied by 3 cents) for the period from November 1, 2011, through October 31, 2012.

EXAMPLE 2: A taxpayer who is a retail dealer of gasoline has a fiscal year ending April 30, 2012. The taxpayer sold 4,000 gallons of E-15 plus gasoline between July 1, 2011, and April 30, 2012. The taxpayer sold 9,000 gallons of E-15 plus gasoline between May 1, 2012, and April 30, 2013. The taxpayer is entitled to claim an E-15 plus gasoline promotion tax credit of \$120 (4,000 gallons multiplied by 3 cents) for the fiscal year ending April 30, 2012. In lieu of claiming the credit on the return for the period ending April 30, 2012, the taxpayer can claim the E-15 plus gasoline promotion tax credit on the tax return for the period ending April 30, 2013, for all E-15 plus gasoline gallons sold for the period from July 1, 2011, through April 30, 2013.

EXAMPLE 3: A taxpayer who is a retail dealer of gasoline has a fiscal year ending February 28, 2025. The taxpayer sold 20,000 total gallons of E-15 plus gasoline for the entire period from March 1, 2024, through February 28, 2025. For the period from March 1 through May 31, 2024, the taxpayer sold 4,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of \$120 (4,000 gallons multiplied by 3 cents). For the period from June 1 through September 15, 2024, the taxpayer sold 6,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of \$600 (6,000 gallons multiplied by 10 cents). For the period from September 16 through December 31, 2024, the taxpayer sold 6,000 gallons of E-15 plus gasoline, which entitles the taxpayer to a credit of \$180 (6,000 gallons multiplied by 3 cents). For the period from January 1 through February 28, 2025, the taxpayer sold 4,000 gallons of E-15 plus gasoline, which occurred after expiration of the credit. The taxpayer is entitled to claim a total E-15 plus gasoline promotion tax credit of \$900 (\$120 plus \$600 plus \$180) on the taxpayer's Iowa income tax return for the period ending February 28, 2025.

42.46(3) Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust. If a taxpayer claiming the E-15 plus gasoline promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.11Y as amended by 2016 Iowa Acts, Senate File 2309.

[ARC 9821B, IAB 11/2/11, effective 12/7/11; ARC 1665C, IAB 10/15/14, effective 11/19/14; ARC 3043C, IAB 4/26/17, effective 5/31/17]

701—42.47(422) Geothermal heat pump tax credit. For tax years beginning on or after January 1, 2019, a geothermal heat pump tax credit is available for residential property located in Iowa as provided in Iowa Code section 422.12N and this rule. Information relating to Iowa geothermal tax credits available for tax years prior to January 1, 2019, can be found in prior versions of this rule. Prior versions of the Iowa Administrative Code are located here: www.legis.iowa.gov/law/administrativeRules/agencies.

42.47(1) Eligibility for the credit. To be eligible for the credit described in this rule, all of the following requirements must be met:

- a. The geothermal heat pump must be eligible for the federal residential energy efficient property tax credit provided in Section 25D(a)(5) of the Internal Revenue Code.
- b. The taxpayer must claim the federal residential energy efficient property tax credit provided in Section 25D(a)(5) of the Internal Revenue Code.
- c. The geothermal heat pump must be installed on residential property located in Iowa and placed in service on or after January 1, 2019. In determining whether this requirement is met, the term "placed in service" has the same meaning as used in Section 25D of the Internal Revenue Code.
- d. The taxpayer must submit a timely and complete application to the department in accordance with subrule 42.47(4).

42.47(2) Calculation of the credit.

- a. The credit is equal to 20 percent of the federal residential energy efficient property tax credit allowed for geothermal heat pumps provided in Section 25D(a)(5) of the Internal Revenue Code. Thus, the Iowa credit rate equals the following percentage of the qualified geothermal heat pump property expenditures:

- (1) For property placed in service during calendar year 2019, 6 percent.
- (2) For property placed in service during calendar years 2020 through 2022, 5.2 percent.
- (3) For property placed in service during calendar year 2023, 4.4 percent.

b. This credit is set to expire on January 1, 2024, in accordance with Public Law No. 116-260, Div. EE, Title I, Subtitle C, §148. If the federal residential energy efficient property tax credit for geothermal heat pumps provided in Section 25D(a)(5) of the Internal Revenue Code is extended by federal legislation into additional tax years, the Iowa credit will continue to be available for each year in which the corresponding federal credit is available, absent action by the Iowa general assembly.

42.47(3) *Tax credit award program limitations.* No more than \$1 million in geothermal heat pump tax credits will be issued per calendar year. If the annual tax credit allocation cap is not reached, the remaining amount below the cap shall be made available for the following tax year in addition to, and cumulated with, the cap for that year.

42.47(4) *How to apply for the credit—waitlist.*

a. In general. Timely and complete applications shall be reviewed and approved on a first-come, first-served basis. Applications for the tax credit shall be submitted through the tax credit submission system, which applicants may access through the department's website.

b. Application deadline. The application must be filed by May 1 of the year following the year of the installation of the geothermal heat pump.

c. Contents of the application. The application must contain the following information:

- (1) Name, address, and federal identification number of the taxpayer.
- (2) Date of installation of the geothermal heat pump. This is the same as the date the installation was placed in service by the taxpayer.
- (3) Copies of invoices or other documents showing the cost of the geothermal heat pump.
- (4) Amount of federal income tax credit claimed for the geothermal heat pump.
- (5) Amount of Iowa tax credit requested.
- (6) Any other information requested by the department in order to verify eligibility for or amount of the Iowa tax credit requested.

d. Waitlist.

(1) If the department receives applications for tax credits in excess of the annual aggregate award limitation, the department shall establish a waitlist for the next year's allocation of tax credits. Valid and complete applications will be placed on the waitlist in the order they are received by the department. However, in the event the department denies an application or part of an application, and upon appeal by the taxpayer a previously denied tax credit amount is allowed, the date the appeal is closed will be used to determine the placement of the allowed tax credit amount on the waitlist. Waitlisted applications are reviewed and, if approved, funded in the order they are listed on the waitlist. Only valid applications filed by the taxpayer by May 1 of the year following the year the geothermal heat pump was installed shall be eligible for the waitlist.

(2) If the annual aggregate cap is reached for the final year in which the federal credit is available, no applications will be carried over to the next year. Therefore, any geothermal heat pump tax credit request related to an installation completed prior to January 1, 2024, that does not receive a tax credit award by the time the 2023 aggregate award limitation is met shall expire and shall not be carried over on the waitlist to any future year.

(3) Placement on a waitlist shall not constitute a promise binding the state that persons placed on the waitlist will actually receive the credit in a future year. The availability of a tax credit and approval of a tax credit application pursuant to this rule in a future year is contingent upon the availability of tax credits in that particular year.

42.47(5) *Claiming the tax credit.*

a. Certificate issuance. If the application is approved, the department will send a letter to the taxpayer including the amount of the tax credit and providing a tax credit certificate.

b. Claiming the tax credit. The geothermal heat pump tax credit will be claimed on Form IA 148, Tax Credits Schedule. The taxpayer must include with any Iowa tax return claiming the geothermal heat pump tax credit federal Form 5695, Residential Energy Credits.

- c. Nonrefundable.* Any credit in excess of the taxpayer's tax liability is nonrefundable.
- d. Carryforward.* Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the taxpayer's tax liability for the following ten years or until depleted, whichever is earlier.
- e. Nontransferable.* The tax credit may not be transferred to any other person.

This rule is intended to implement Iowa Code section 422.12N and 2019 Iowa Acts, House File 779. [ARC 5589C, IAB 4/21/21, effective 5/26/21]

701—42.48(422) Solar energy system tax credit. A solar energy system tax credit is available for both residential property and business property located in Iowa as provided in Iowa Code section 422.11L and this rule.

42.48(1) Relationship between the Iowa and federal credits.

a. The Iowa credit is a percentage of the applicable federal credit. Taxpayers who apply for the Iowa credit must also qualify for and claim the corresponding federal credit. Availability of the Iowa credit for a specific type of installation in a given year is dependent upon availability of the federal credit for that type of installation.

b. The Iowa credit conforms with the Internal Revenue Code as amended to and including January 1, 2016. The term "Internal Revenue Code" as used in this rule refers to the Internal Revenue Code as it existed on January 1, 2016. See Iowa Code section 422.11L(6); see also Public Law No. 114-113, Div. P, Title III, §§ 302, 303, 304, and Div. Q, Title I, § 187.

42.48(2) Calculation of the credit—per installation award limitation.

a. The credit is equal to the sum of the following federal tax credits for property located in Iowa:

(1) Fifty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code. This federal credit equals an applicable percentage of qualified solar energy electric property expenditures described in Section 25D(d)(2) of the Internal Revenue Code for residential use. This credit is not available for Iowa purposes for any qualified solar energy electric property placed in service after December 31, 2021, in accordance with Public Law No. 114-113 Div. P, Title III, § 304.

(2) Fifty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code. This federal credit equals an applicable percentage of the qualified solar water heating property expenditures described in Section 25D(d)(1) of the Internal Revenue Code for residential use. This credit is not available for Iowa purposes for any qualified solar water heating property placed in service after December 31, 2021, in accordance with Public Law No. 114-113 Div. P, Title III, § 304.

(3) Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code. This federal credit equals an applicable percentage of energy property equipment described in Section 48(a)(3)(A)(i) of the Internal Revenue Code that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purpose of heating a swimming pool), for business use. This credit is not available for Iowa purposes for any qualified property the construction of which begins on or after January 1, 2022, in accordance with Public Law No. 114-113 Div. P, Title III, § 303.

(4) Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code. This federal credit equals an applicable percentage of energy property described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code that uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight, for business use. This credit is not available for Iowa purposes for any qualified property placed in service after December 31, 2016, in accordance with Public Law No. 114-113 Div. Q, Title I, § 187.

Iowa Solar Energy System Tax Credit Rates for Installations On or After January 1, 2016,* Based on 50% of Applicable Federal Rate Under Sections 25D and 48 of the Internal Revenue Code in Effect on January 1, 2016			
Applicable Property	Calendar Year Construction Begins	Calendar Year Property Placed in Service	Iowa Tax Credit Rate
Qualified Residential Solar Electric Property Under Section 25D(a)(1) of the Internal Revenue Code	N/A	2016-2019	15%
	N/A	2020	13%
	N/A	2021	11%
	N/A	2022 or later	0%
Qualified Residential Solar Water Heating Property Under Section 25D(a)(2) of the Internal Revenue Code	N/A	2016-2019	15%
	N/A	2020	13%
	N/A	2021	11%
	N/A	2022 or later	0%
Qualified Business Energy Property (electric, heat/cool, solar process heat) Under Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code	2016-2019	2016-2023	15%
		2024 or later	5%
	2020	2020-2023	13%
		2024 or later	5%
	2021	2021-2023	11%
		2024 or later	5%
	2022 or later	2022 or later	0%
Qualified Business Energy Property (fiber-optic solar illumination) Under Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code	N/A	2016	15%
	N/A	2017 or later	0%
*For a description of Iowa tax credit rates for installations placed in service prior to January 1, 2016, consult the prior versions of this rule.			

b. A solar installation must be placed in service to be eligible for the tax credit. In determining whether this requirement is met, the term “placed in service” has the same meaning as used for purposes of Section 25D or 48 of the Internal Revenue Code, as applicable. The date a taxpayer begins construction of a solar installation for purposes of Section 48 of the Internal Revenue Code shall be the same date the taxpayer begins construction for Iowa purposes.

c. The amount of tax credit claimed by a taxpayer related to subparagraphs 42.48(2) “a”(1) and 42.48(2) “a”(2) cannot exceed \$5,000 per separate and distinct installation. The amount of tax credit claimed by a taxpayer related to subparagraphs 42.48(2) “a”(3) and 42.48(2) “a”(4) cannot exceed \$20,000 per separate and distinct installation. When a separate and distinct installation is used for both residential and business purposes, both award limitations apply and are calculated separately based on the proportion of the installation used for business purposes and for residential purposes. The taxpayer may use any reasonable method to establish the business and residential proportions, but the burden is on the taxpayer to prove the proper proportions. If the taxpayer does not provide adequate evidence to prove that the amounts of the business and residential proportions and the method for determining those proportions are reasonable, and if the department is unable to determine reasonable proportions from the information provided by the taxpayer, the entire installation shall be deemed used for residential purposes. The term “separate and distinct installation” is described in subrule 42.48(5).

EXAMPLE 1: Taxpayer A is a farmer who installs solar energy property during 2020 that provides power to two farm buildings and A’s residence. Taxpayer A submits one application for the Iowa solar energy system tax credit showing \$100,000 of total eligible expenditures. Taxpayer A provides evidence to the department that adequately explains A’s method of allocating the solar energy system’s total usage between business use and personal use, and shows that 40 percent of the solar energy property is used for residential purposes and 60 percent is used for farm business purposes. The department determines the amounts and the method for determining those proportions to be reasonable and therefore considers the

taxpayer to have submitted a tax credit application requesting both a residential solar energy system tax credit and a business solar energy system tax credit. The residential tax credit request includes \$40,000 ($\$100,000 \times 40\%$) of eligible expenditures, subject to the \$5,000 tax credit cap. Therefore, A is eligible for a residential tax credit of \$5,000 ($\$40,000 \times 13\%$ Iowa credit rate = \$5,200, less \$200 in excess of cap). The business tax credit request includes \$60,000 ($\$100,000 \times 60\%$) of eligible expenditures, subject to the \$20,000 tax credit cap. Therefore, A is eligible for a business tax credit of \$7,800 ($\$60,000 \times 13\%$ Iowa credit rate). Taxpayer A receives a total Iowa tax credit of \$12,800 ($\$5,000 + \$7,800$). Although A submitted one tax credit application in this situation, the resulting tax credit amount would have been the same if A had instead submitted two separate tax credit applications: one residential application with \$40,000 of eligible expenditures and one business application with \$60,000 of eligible expenditures.

EXAMPLE 2: Same facts as Example 1, except that taxpayer A does not submit adequate evidence to the department supporting a reasonable method of determining the proportion of the solar energy property used for residential and business purposes, and the department is unable to determine reasonable proportions from the information provided by A. The department deems the entire installation used for residential purposes, subject to the \$5,000 tax credit cap. Therefore, A receives a total Iowa tax credit of \$5,000 ($\$100,000 \times 13\%$ Iowa credit rate = \$13,000, less \$8,000 in excess of cap).

d. Recomputation of federal credit.

(1) Because the Iowa credit is a percentage of the applicable federal credit, when the federal credit under Section 48 of the Internal Revenue Code is recomputed under 26 CFR §1.47-1, the Iowa credit amount must also be recomputed and reduced by the same percentage that the federal credit was reduced. The federal credit recomputation is required on the federal Form 4255, Recapture of Investment Credit.

(2) In the year of the recomputation, if the amount of the Iowa credit previously claimed is less than the recomputed Iowa credit amount, the taxpayer must reduce any remaining available carryforward amount to reflect the Iowa credit carryforward remaining after the recomputation.

(3) If the amount of the Iowa credit previously claimed is more than the recomputed Iowa credit amount, the taxpayer must include the amount that was overclaimed in prior tax years as a negative credit amount on the IA 148, Iowa Tax Credit Schedule, and any remaining unused credit carryforward amount expires immediately. The negative credit amount represents the overclaimed Iowa credit and will be netted against the taxpayer's other nonrefundable tax credits on the IA 148, Iowa Tax Credit Schedule, if any. After applying the negative credit amount against other available nonrefundable credits, if the taxpayer's net total nonrefundable credits for the year is a negative amount, that negative amount must be entered on the appropriate line of the taxpayer's income tax return for reporting nonrefundable Iowa credits from the IA 148, Iowa Tax Credit Schedule, and will increase the taxpayer's tax liability.

42.48(3) Tax credit award program limitations. The following program limitations apply:

a. Aggregate tax credit award limit. No more than \$5 million of tax credits per year will be issued for calendar years beginning on or after January 1, 2015. The annual tax credit allocation cap also includes the solar energy system tax credits provided in rule 701—52.44(422) for corporation income tax and in rule 701—58.22(422) for franchise tax.

b. Allocation for residential installations. Beginning with tax year 2014, at least \$1 million of the annual tax credit allocation cap for each tax year is reserved for residential installations qualifying under Section 25D of the Internal Revenue Code. If the total amount of credits for residential installations for a tax year is less than \$1 million, the remaining amount below \$1 million will be allowed for nonresidential installations qualifying under Section 48 of the Internal Revenue Code.

c. Rollover of unallocated credits. Beginning with calendar year 2014, if the annual tax credit allocation cap is not reached, the remaining amount below the cap shall be made available for the following tax year in addition to, and cumulated with, the cap for that year.

42.48(4) How to apply for the credit. Timely and complete applications shall be reviewed and approved on a first-come, first-served basis. Applications for the tax credit shall be submitted through the tax credit submission system, which applicants may access through the department's website.

a. Application deadline. For installations completed on or after January 1, 2014, the application must be filed by May 1 following the year of installation of the solar energy system. Notwithstanding

the foregoing sentence, the following extensions are applicable to installations completed in 2014 and 2015:

(1) Solar energy systems installed during the 2014 calendar year shall be eligible for approval under Iowa Code section 422.11L even if the application is filed after May 1, 2015. Valid and complete applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2016.

(2) Solar energy systems installed during the 2015 calendar year shall be eligible for approval under Iowa Code section 422.11L even if the application is filed after May 1, 2016. Valid and complete applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2017.

b. Contents of the application. The application must contain the following information:

(1) Name, address, and federal identification number of the taxpayer.

(2) Date of installation of the solar energy system. This is the same as the date the installation was placed in service by the taxpayer.

(3) The kilowatt capacity of the solar energy system.

(4) Copies of invoices or other documents showing the cost of the solar energy system.

(5) Amount of federal income tax credit claimed for the solar energy system.

(6) Amount of Iowa tax credit requested.

(7) All applicants must provide a completion sheet from a local utility company or similar documentation verifying that installation of the system has been completed. For nonresidential installations, the completion sheet must indicate the date the installation was placed in service. If a completion sheet from the local utility company or similar documentation is not available, a statement shall be provided that is similar to the one required to be attached to federal Form 3468 when claiming the federal energy credit and that specifies the date the system was placed in service.

(8) A copy of any signed agreement made regarding the solar energy system that verifies the applicant is a qualified applicant. This includes, but is not limited to, lease agreements. When an applicant is entitled to the Iowa solar energy system tax credit for a leased solar energy system, the other party to the lease will not be entitled to such a credit for the same leased solar energy system.

(9) For nonresidential installations, the date on which construction began.

(10) Any other information requested by the department in order to verify eligibility for or amount of the Iowa tax credit requested.

c. Previously claimed expenditures disallowed. An applicant may not include on an application any expenditure for which the taxpayer previously received, or was denied, a tax credit award or any expenditure that was part of an approved separate and distinct installation but was disallowed due to exceeding the maximum Iowa tax credit amount.

d. Waitlist. If the department receives applications for tax credits in excess of the annual aggregate award limitation, the department shall establish a waitlist for the next year's allocation of tax credits. Valid and complete applications will be placed on the waitlist in the order they are received by the department. However, in the event the department denies an application or part of an application, and upon appeal by the taxpayer a previously denied tax credit amount is allowed, the date the appeal is closed will be used to determine the placement of the allowed tax credit amount on the waitlist. Waitlisted applications are reviewed and, if approved, funded in the order they are listed on the waitlist. With the exception of the extension described in subparagraphs 42.48(4) "a"(1) and 42.48(4) "a"(2) above, only valid applications filed by the taxpayer by May 1 of the year following the year of the installation of the solar energy property shall be eligible for the waitlist. If the annual aggregate cap is reached for the final year in which the federal credit is available, no applications will be carried over to the next year. This tax credit limitation shall apply as follows:

(1) Residential property tax credit claims. The federal credits related to residential property under Sections 25D(a)(1) and 25D(a)(2) of the Internal Revenue Code expire and are unavailable for Iowa tax purposes for installations completed on or after January 1, 2022. Therefore, any residential tax credit

request related to an installation completed prior to January 1, 2022, that does not receive a tax credit award by the time the 2021 aggregate award limitation is met shall expire and shall not be carried over on the waitlist to any future year.

(2) Business property tax credit claims. The federal credit related to business property under Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code does not expire for Iowa tax purposes. It is available for installations that begin construction prior to January 1, 2022, in any future tax year the installation is placed in service. Therefore, any business tax credit request related to an installation that begins construction prior to January 1, 2022, but that does not receive a tax credit award by the time the annual aggregate award limitation is met will not expire and will be eligible to be carried over on the waitlist to future years, and receive a tax credit award in a future year, provided the authorization to approve and issue tax credits under Iowa Code section 422.11L(4) “a” is not repealed.

Placement on a waitlist shall not constitute a promise binding the state that persons placed on the waitlist will actually receive the credit in a future year. The availability of a tax credit and approval of a tax credit application pursuant to this rule in a future year is contingent upon the availability of tax credits in that particular year.

e. Certificate issuance. If the application is approved, the department will send a letter to the taxpayer including the amount of the tax credit and providing a tax credit certificate.

f. Claiming the tax credit. The solar energy system tax credit will be claimed on Form IA 148, Tax Credits Schedule. The taxpayer must include with any Iowa tax return claiming the solar energy system tax credit federal Form 5695, Residential Energy Credits, if claiming the residential energy credit or federal Form 3468, Investment Credit, if claiming the business energy credit.

g. Nonrefundable. Any credit in excess of the taxpayer’s tax liability is nonrefundable.

h. Carryforward. Any tax credit in excess of the taxpayer’s tax liability for the tax year may be credited to the taxpayer’s tax liability for the following ten years or until depleted, whichever is earlier.

i. Nontransferable. The credit may not be transferred to any other person.

42.48(5) Separate and distinct installation requirement. Only one tax credit may be awarded and claimed for each separate and distinct solar installation. Each separate and distinct installation requires a separate application. For purposes of this subrule, unless the context otherwise requires, use of the term “installation” or “solar installation” refers to the physical equipment that generates electricity using solar energy in a manner that qualifies that equipment for a tax credit. In order for an installation that otherwise meets the requirements of Iowa Code section 422.11L and this rule to be considered a separate and distinct solar installation, both of the factors in paragraphs 42.48(5) “a” and “b” must be met. This determination is made by the department and requires a review of the current application received by the department and all prior applications received by the department from any taxpayer. When determining whether a solar installation is separate and distinct from other solar installations, the department will consider the totality of the facts and circumstances surrounding the solar installations. The taxpayer bears the burden of showing that an installation qualifies as separate and distinct. For a safe harbor rule relating to solar installations that begin construction prior to June 1, 2021, see paragraph 42.48(5) “c.”

a. A repair or maintenance shall not constitute a solar installation. If the installed equipment repairs or otherwise maintains the working order of another solar installation or part of another solar installation, it will not be considered separate and distinct from that other solar installation, even if the installed equipment results in increased production capacity because of its superior quality, performance, or efficiency, or other similar reason. Evidence that part of the other solar installation was removed or replaced at or around the time the equipment was installed is a strong indication that the equipment is a repair or maintenance, but it is not required for such a determination.

EXAMPLE 3: Taxpayer B applies for and is awarded an Iowa solar tax credit for a solar installation that powers taxpayer B’s workshop. Two years after that solar installation is placed in service, the solar inverter malfunctions. Taxpayer B purchases and installs a new solar inverter, which keeps the solar installation in working order. At the same time, B also replaces several functioning solar panels on the solar installation with new, higher quality panels that increase the solar installation’s production capacity. Taxpayer B submits a second application for the costs of the solar inverter and the solar panels. These costs are considered a repair or maintenance and do not qualify as separate and distinct from the prior

installation. Therefore, they do not qualify for the Iowa solar tax credit. This is the result even if the costs qualify for the federal tax credit and even though the solar panels improve the productivity of the solar installation.

b. The solar installation must be a replacement installation or an independent installation.

(1) Replacement installation. When previous solar installations have been completely decommissioned, whether from disposal by the applicant or casualty loss or theft, the new solar installation may be considered a replacement installation of the decommissioned solar installation. A solar installation that ceases operation but that has not been physically removed and discarded by a person is not decommissioned unless it cannot operate and is incapable of being repaired to working order. A solar installation that merely changes location or ownership has not been decommissioned and thus may not qualify as a replacement installation. Expenditures that are subject to an insurance reimbursement do not qualify for the solar energy system tax credit.

EXAMPLE 4: Taxpayer C applies for and is awarded an Iowa solar tax credit for a solar installation that powers taxpayer C's business. One year after that solar installation is placed in service, it is destroyed beyond repair by a severe storm. Taxpayer C's insurance policy does not cover damage to a solar installation. Taxpayer C purchases and places in service another solar installation that powers taxpayer C's business and timely applies for the Iowa solar energy system tax credit. Taxpayer C's subsequent installation may be eligible for the Iowa solar energy system installation credit as a replacement installation.

(2) Independent installation. An independent installation is one that has a sufficiently remote association with other solar installations that received the Iowa solar energy system tax credit such that it can be considered independent from those other solar installations. When determining whether a particular solar installation qualifies as an independent installation, the department will first consider the electrical generation purpose of the relevant solar installations, as described in numbered paragraph 42.48(5) "b"(2)"1" below. Only if the department finds that it cannot make a determination from that criteria alone will the department consider other criteria. A nonexhaustive list of other criteria that may be considered by the department is provided in numbered paragraph 42.48(5) "b"(2)"2" below.

1. Electrical generation purpose. The department will review the electrical generation purpose of each solar installation. As described below, this involves a review of the building(s) or structure(s) being powered by each solar installation. When two or more solar installations have the same electrical generation purpose, they are not independent installations. When two or more solar installations have different electrical generation purposes, this is an indication that they may be independent installations. With respect only to a multiple housing cooperative under Iowa Code chapter 499A or a horizontal property regime under Iowa Code chapter 499B, each apartment shall constitute a building or structure, and each cooperative or regime owner's proportionate share of qualifying expenses incurred by the cooperative or regime shall constitute a solar installation paid by the cooperative or regime owner.

- Same building(s) or structure(s). If the applied-for solar installation will power buildings or structures that are also being powered by another solar installation, or that were being powered by another solar installation at some point during the 12-month period before the applied-for solar installation was placed in service, then the installations have the same electrical generation purpose. However, adequate proof from the taxpayer of a substantial increase in electricity demand is evidence tending to indicate that the solar installations do not have the same electrical generation purpose. A "substantial increase in electricity demand" exists when the sum of the average monthly electricity consumption of each building or structure powered by the applied-for solar installation for the 12-month period before the applied-for solar installation is placed in service is at least 50 percent greater than the sum of the average monthly electricity consumption of each building or structure powered by the other solar installation for the 12-month period before the other solar installation was placed in service. Average electricity consumption shall be measured in kilowatt hours. With respect to the other solar installation, if any applicable building or structure was not in service for a period of 12 months before the other solar installation was placed in service, the average monthly electricity consumption for that building or structure shall be the average electricity consumption for the first 12 months the building or structure was in service. With respect to the applied-for solar installation, the calculation of the average

monthly electricity consumption for any building or structure that was not placed in service prior to the other solar installation shall be calculated using a denominator of 12 even if that building or structure was not in service for a period of 12 months before the applied-for solar installation was placed in service. The reason for the increased electricity consumption shall not be relevant in determining if a substantial increase in electricity demand exists.

EXAMPLE 5: Taxpayer D is awarded a solar energy system tax credit for a solar installation that provides power to D's home. Three years later, D installs a second solar installation that also provides power to D's home. Absent additional information from D that would show a substantial increase in electricity demand, the second solar installation has the same electrical generation purpose as the first installation because they both provide power to D's home. Therefore, the second solar installation would not be considered an independent installation.

EXAMPLE 6: Taxpayer E owns an apartment building with ten apartment units. In 2021, taxpayer E installs solar energy business property with a cost of \$300,000 that will power the apartment building. Taxpayer E submits solar tax credit applications for ten different solar installations, one for each unit within the apartment building. Each application claims \$30,000 in qualifying costs and requests an Iowa solar credit of \$3,300 ($\$30,000 \times 11\%$) for business property, for a sum total of \$33,000 in tax credits. Because the solar installations claimed on all ten applications provide power to the same apartment building, they all have the same electrical generation purpose. Therefore, only one of the solar installations could qualify for the tax credit as an independent installation, subject to the \$20,000 per-installation tax credit cap. The other nine installations would all fail to qualify as independent installations. The result is the same whether or not the apartment units have separate utility meters. See Example 10 for a different result if the building were organized as a multiple housing cooperative or horizontal property regime.

EXAMPLE 7: Taxpayer F, a machinist, is awarded a solar energy system tax credit for a solar installation that provides power to F's machine shop. Several years later, F installs a second solar installation that will provide power to F's machine shop but also to F's office building. Taxpayer F submits a complete and timely application for the solar energy system tax credit. Absent additional information from F that would show a substantial increase in electricity demand, the second solar installation has the same electrical generation purpose as the first solar installation because they both provide power to F's machine shop. Therefore, the second solar installation would not be considered an independent installation.

EXAMPLE 8: Assume the same facts as Example 7, except that taxpayer F provides additional information to the department regarding the electricity consumption of F's machine shop and office building. Taxpayer F provides utility bills which show that for the 12-month period before the first solar installation was placed in service, the average monthly electricity consumption for the machine shop was 1,000 kilowatt hours. For the 12-month period before the second solar installation was placed in service, the average monthly electricity consumption for the machine shop was 1,200 kilowatt hours. Additionally, the office building was constructed and placed in service three months before the second solar installation was placed in service. Taxpayer F provides utility bills which show that for the three months the office building was in service, the monthly electricity consumption for the office building was 1,400 kilowatt hours, 1,600 kilowatt hours, and 1,800 kilowatt hours, respectively. This means that the average monthly electricity consumption of the office building for purposes of the "substantial increase in energy demand" test is 400 kilowatt hours [i.e., $(1,400 + 1,600 + 1,800) \div 12 = 400$]. Therefore, for the 12-month period before the second solar installation was placed in service, the average monthly electricity consumption for the machine shop and office building was 1,600 kilowatt hours [i.e., $1,200 + 400 = 1,600$]. Because this 1,600 monthly kilowatt hour average applicable to the second solar installation exceeds by at least 50 percent the 1,000 monthly kilowatt hour average applicable to the first solar installation, taxpayer F has shown a substantial increase in electricity demand and the second solar installation may qualify as an independent installation.

- Different building(s) or structure(s). If the applied-for solar installation will not power any building or structure that is also being powered by another solar installation, or that was also being powered by another solar installation at some point during the 12-month period before the applied-for

solar installation was placed in service, this is an indication that the solar installations may have a different electrical generation purpose.

EXAMPLE 9: Taxpayer G, a farmer, is awarded a solar energy system tax credit for a solar installation that provides power to G's equipment barn. Later, G installs a second solar installation that will only provide power to G's livestock building. Because the first solar installation only provides power to G's barn and the second solar installation only provides power to G's livestock building, this is an indication that each solar installation has a different electrical generation purpose. The second solar installation would be considered an independent installation, unless additional information shows the contrary to be true.

EXAMPLE 10: Taxpayer H, a multiple housing cooperative under Iowa Code chapter 499A, owns an apartment building with ten apartment units. In 2021, H installs solar energy property with a cost of \$300,000 that will power the apartment building. The owner of each apartment unit submits a solar tax credit application for a solar installation claiming a proportionate share of H's qualifying expenditures for the solar energy property, which in this case is \$30,000 per owner, and requesting an Iowa credit of \$3,300 ($\$30,000 \times 11\%$), for a sum total of \$33,000 in tax credits. Since this building is organized as a multiple housing cooperative under Iowa Code chapter 499A, each apartment constitutes a building or structure and each owner's proportionate share of qualifying expenses incurred by the cooperative constitutes a solar installation paid by the owner. This is the first solar installation with respect to each of these apartments, so they are not being powered by another solar installation that received an Iowa tax credit. Therefore, this is an indication that each solar installation has a different electrical generation purpose. Each of the ten solar installations would be considered an independent installation, unless additional information shows the contrary to be true. The result would be the same if the building were organized as a horizontal property regime under Iowa Code chapter 499B. However, see Example 7 regarding apartment buildings not organized as a multiple housing cooperative or horizontal property regime.

2. Other criteria.

- Location. The department will consider the physical location of each solar installation. When two or more solar installations are in close physical proximity, this is an indication that the installations may not be independent installations. The farther in physical proximity the installations are, the stronger the likelihood that they are independent installations. Locating an installation at the same address or on the same or adjacent parcel as another installation is a stronger indication that the two installations are not independent installations than if they were located at different addresses or on nonadjacent parcels. The expansion in physical size or production capacity of an existing solar installation is an indication that the installations are not independent installations. If two or more solar installations are physically attached or connected to the same building or structure, this is an indication that the installations are not independent installations.

EXAMPLE 11: Taxpayer Q submits a complete and timely solar energy system tax credit application for a solar installation located at an address that is adjacent to the address of a prior solar installation for which taxpayer Q received a solar energy system tax credit award. Based on the information provided by the taxpayer, the department is unable to determine the electrical generation purpose of the solar installations. Without additional information, the proximity of the two solar installations supports a determination by the department that the second solar installation is not an independent installation.

- Billing. The department will consider the manner in which a utility company issues bills associated with solar installations. Even when a solar installation does not actually provide electricity to any buildings or structures that are also being powered by another solar installation, if a utility company issues bills associated with a solar installation under a net metering agreement in a manner that allows credits from the net outflow of one solar installation to be applied against the utility costs of buildings or structures that are powered by another solar installation, the department will evaluate the solar installations subject to the net metering agreement as if they were powering the same buildings or structures for purposes of determining electrical generation purpose in numbered paragraph 42.48(5) "b"(2)"1" above.

- **Utility metering.** The department will consider whether each solar installation is connected to a separate utility meter and the business reason, if any, for using separate utility meters. For purposes of this subrule, “utility meter” means a device installed by a utility company used to monitor the amount of electricity consumed or produced by a consumer. When a metering agreement requires a person to install two unidirectional meters, the set will be considered a single utility meter for purposes of this subrule. The department will not consider a measuring device installed and used by a person for personal monitoring of electricity production or consumption to be a “utility meter” for purposes of this subrule. This should not be interpreted to require a person to connect the person’s solar installation to a utility provider’s grid in order to be eligible for the tax credit.

- **Payment for installation or service.** The department will consider how expenses incurred for construction or servicing of a solar installation are paid. When expenses incurred for two or more solar installations are paid by related parties, it may indicate that the installations are not independent installations. However, the department may request additional information to evaluate the relationship between the person who pays for such expenses and the person who claims the tax credit.

- **Contract terms.** The department will consider the terms of installation and service contracts related to the solar installation and may require a person to provide installation and service contracts related to any prior solar installation for which the department has received a tax credit application. When contract terms indicate that the solar installations have been installed as or are serviced as a single, functional unit or system, the department will consider that as evidence that the installations are not independent installations.

- **Timing of installation or application.** The department will consider when the applied-for solar installation was placed in service and when a person submits the tax credit application as compared to other solar installations.

c. **Safe harbor for solar installations that begin construction prior to June 1, 2021.** For any solar installation for which the taxpayer begins construction prior to June 1, 2021, the taxpayer may rely on the factors in the prior version of paragraph 42.48(7) “a” in determining whether the solar installation is a separate and distinct installation. Prior versions of the Iowa Administrative Code are located here: www.legis.iowa.gov/law/administrativeRules/agencies.

42.48(6) *Unavailable to those eligible for renewable energy tax credit.* A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—42.28(422,476C) is not eligible for the solar energy system tax credit.

42.48(7) *Allocation of tax credit to owners of a business entity or beneficiaries of an estate or trust.* If the taxpayer claiming the tax credit based on a percentage of the federal energy credit under Section 48 of the Internal Revenue Code is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual, the individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual’s earnings of the partnership, limited liability company, S corporation, estate, or trust. The maximum amount of credit available to a partnership, limited liability company, S corporation, estate, or trust shall be limited to \$15,000 for installations placed in service in tax years 2012 and 2013 and \$20,000 for installations placed in service in tax years beginning on or after January 1, 2014.

This rule is intended to implement Iowa Code section 422.11L.

[ARC 0361C, IAB 10/3/12, effective 11/7/12; ARC 1303C, IAB 2/5/14, effective 3/12/14; ARC 1666C, IAB 10/15/14, effective 11/19/14; ARC 2925C, IAB 2/1/17, effective 3/8/17; ARC 5590C, IAB 4/21/21, effective 5/26/21]

701—42.49(422) Volunteer fire fighter, volunteer emergency medical services personnel and reserve peace officer tax credit. Effective for tax years beginning on or after January 1, 2013, a tax credit is available for individual income tax for volunteer fire fighters and volunteer emergency medical services (EMS) personnel. Effective for tax years beginning on or after January 1, 2014, a tax credit is available for individual income tax for reserve peace officers.

42.49(1) *Definitions.* The following definitions are applicable to this rule:

“Emergency medical services personnel” or “EMS personnel” means an emergency medical care provider, as defined in Iowa Code section 147A.1, who is certified as a first responder in accordance

with Iowa Code chapter 147A. For tax years beginning on or after January 1, 2014, “emergency medical services personnel” or “EMS personnel” also includes an individual who is a paid employee of an emergency medical services program and who is also a volunteer emergency medical services personnel in a city, county or area governed by an agreement pursuant to Iowa Code chapter 28E.

“*Reserve peace officer*” means a reserve peace officer as defined in Iowa Code section 80D.1A who has met the minimum state training standards established by the Iowa law enforcement academy in accordance with Iowa Code chapter 80D.

“*Volunteer fire fighter*” means a volunteer fire fighter, as defined in Iowa Code section 85.61, who has met the minimum training standards established by the fire service training bureau pursuant to Iowa Code chapter 100B. For tax years beginning on or after January 1, 2014, “volunteer fire fighter” means an individual who is an active member of an organized volunteer fire department in Iowa or is performing services as a volunteer fire fighter for a municipality, township or benefited fire district at the request of the chief or other person in command and who has met the minimum training standards established by the fire service training bureau pursuant to Iowa Code chapter 100B. For tax years beginning on or after January 1, 2014, a volunteer fire fighter also includes an individual who is a paid employee of a fire department and who is also a volunteer fire fighter in a city, county or area governed by an agreement pursuant to Iowa Code chapter 28E.

42.49(2) Calculation of the credit.

a. The credit is equal to \$50 for the tax year beginning January 1, 2013, if the volunteer fire fighter or volunteer EMS personnel was a volunteer for the entire year. The credit is equal to \$100 for tax years beginning on or after January 1, 2014, if the volunteer fire fighter, volunteer EMS personnel or reserve peace officer was a volunteer for the entire year.

b. If the individual was not a volunteer fire fighter or volunteer EMS personnel for the entire 2013 calendar year, the \$50 credit is prorated based on the number of months the individual was a volunteer. Beginning in the 2014 calendar year, if the individual was not a volunteer fire fighter, volunteer EMS personnel or reserve peace officer for the entire year, the \$100 credit is prorated based on the number of months the individual was a volunteer. If the individual was a volunteer during any part of a month, the individual will be considered a volunteer for the entire month. The amount of credit will be rounded to the nearest dollar.

EXAMPLE: An individual became a volunteer fire fighter on April 15, 2013, and remained a volunteer for the rest of calendar year 2013. The individual is considered a volunteer for nine months of 2013. The tax credit for 2013 is equal to \$38 (\$50 multiplied by 9/12 equals \$37.50; rounding to the nearest dollar results in a \$38 credit).

c. If an individual is both a volunteer fire fighter and a volunteer EMS personnel during the same month, a credit can be claimed for only one volunteer position for that month. Therefore, if an individual was both a volunteer fire fighter and volunteer EMS personnel for all of 2013, the tax credit will equal \$50. In addition, beginning in calendar year 2014, if a reserve peace officer is also either a volunteer fire fighter or a volunteer EMS personnel, a credit can be claimed for only one volunteer position for that month.

42.49(3) Verification of eligibility for the tax credit. An individual is required to have a written statement from the fire chief or other appropriate supervisor verifying that the individual was a volunteer fire fighter or volunteer EMS personnel for the months for which the tax credit is being claimed. Beginning with the 2014 tax year, an individual who is a reserve peace officer must have a written statement from the chief of police, sheriff, commissioner of public safety, or other appropriate supervisor verifying that the individual was a reserve peace officer for the months for which the tax credit is being claimed. The written statement does not have to be attached to a tax return claiming the credit. However, the individual may be requested to provide the written statement upon request by the department.

This rule is intended to implement Iowa Code section 422.12 as amended by 2014 Iowa Acts, House File 2459.

[ARC 0398C, IAB 10/17/12, effective 11/21/12; ARC 1665C, IAB 10/15/14, effective 11/19/14]

701—42.50(422) Taxpayers trust fund tax credit. For tax years beginning on or after January 1, 2013, a taxpayers trust fund tax credit is available for Iowa individual income tax. The credit is available for all individual income tax filers, including residents, nonresidents and part-year residents of Iowa, and individuals who file as part of a composite return as described in rule 701—48.1(422), as long as the Iowa return is filed within the extended due date to file an Iowa return. Therefore, a fiscal-year filer whose tax year does not begin on January 1 is eligible to claim the taxpayers trust fund tax credit as long as the return is filed within the extended due date of the Iowa return.

42.50(1) Calculation of the amount of tax credit. The credit is calculated by taking the amount in the Iowa taxpayers trust fund and dividing it by the number of individual income taxpayers who filed Iowa returns by October 31 of the year preceding the year in which the credit is allowed.

EXAMPLE: There is \$120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. There were 2,200,000 individuals who filed Iowa income tax returns by October 31, 2013, for tax years beginning on or after January 1, 2012, but beginning before January 1, 2013. This results in an Iowa taxpayers trust fund tax credit of \$54 for the tax year beginning on or after January 1, 2013, but beginning before January 1, 2014 (\$120,000,000 divided by 2,200,000 equals \$54.55, which is rounded down to the nearest whole dollar). All taxpayers who file their Iowa individual income tax return by October 31, 2014, for the tax period beginning on or after January 1, 2013, but beginning before January 1, 2014, will be entitled to claim a \$54 Iowa taxpayers trust fund tax credit.

If the amount of Iowa taxpayers trust fund tax credits claimed on tax returns for a particular year is less than the amount authorized, the difference will be transferred to the Iowa taxpayers trust fund for the next year and will be available as an Iowa taxpayers trust fund tax credit for the next year. There must be a balance in the Iowa taxpayers trust fund of at least \$30 million in order for the Iowa taxpayers trust fund tax credit to be available.

EXAMPLE: There is \$120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. The total amount of Iowa taxpayers trust fund tax credit claimed on Iowa tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, which were filed on or before October 31, 2014, is \$90 million. The difference of \$30 million will be transferred to the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. The legislature approves an additional \$60 million to be deposited in the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. This will result in \$90 million in the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. If 2,200,000 individuals file Iowa individual income tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, by October 31, 2014, this will result in a \$40 Iowa taxpayers trust fund tax credit for the tax year beginning on or after January 1, 2014, but beginning before January 1, 2015 (\$90,000,000 divided by 2,200,000 equals \$40.90, which is rounded down to the nearest whole dollar).

42.50(2) Claiming the credit on the tax return. The Iowa taxpayers trust fund is claimed on the amount of Iowa tax computed after all other nonrefundable credits allowed in division II of Iowa Code chapter 422 (excluding the Iowa taxpayers trust fund tax credit) are deducted, after the amount of school district surtax described in rule 701—42.1(257,422) and emergency medical services income surtax described in rule 701—42.2(422D) is added, and after all refundable credits (excluding estimated payments and tax withheld) allowed in division II of Iowa Code chapter 422 are deducted. Any Iowa taxpayers trust fund tax credit in excess of the tax liability is not refundable and shall not be carried back to the tax year prior to the tax year in which the credit is claimed and cannot be carried forward to a tax year for any following year.

EXAMPLE: A taxpayer reported a tax liability of \$100 on the taxpayer's 2013 Iowa income tax return. The taxpayer claimed a \$40 personal exemption credit and a \$25 franchise tax credit. This resulted in tax due of \$35 before applying the school district surtax. Taxpayer was subject to a \$2 school district surtax which resulted in total tax due of \$37. Taxpayer was entitled to claim a \$54 Iowa taxpayers trust fund tax credit, but only \$37 of credit could be applied on the 2013 Iowa return. The remaining \$17 of

credit cannot be refunded, cannot be applied to a prior year tax liability, and cannot be carried forward to be applied to a subsequent year tax liability.

This rule is intended to implement Iowa Code section 422.11E.
[ARC 1102C, IAB 10/16/13, effective 11/20/13; ARC 1665C, IAB 10/15/14, effective 11/19/14]

701—42.51(422,85GA,SF452) From farm to food donation tax credit. Effective for tax years beginning on or after January 1, 2014, a taxpayer that donates a food commodity that the taxpayer produces may claim a tax credit for Iowa individual income tax. The credit is equal to 15 percent of the value of the commodities donated during the tax year for which the credit is claimed or \$5,000, whichever is less. The value of the commodities shall be determined in the same manner as a charitable contribution of food for federal tax purposes under Section 170(e)(3)(C) of the Internal Revenue Code.

To qualify for the tax credit, the taxpayer (1) must produce the donated food commodity; (2) must transfer title to the donated food commodity to an Iowa food bank or Iowa emergency feeding organization recognized by the department; and (3) shall not receive remuneration for the transfer. The donated food commodity cannot be damaged or out-of-condition and declared to be unfit for human consumption by a federal, state, or local health official. A food commodity that meets the requirements for donated foods pursuant to the federal Emergency Food Assistance Program satisfies this requirement.

To be recognized by the department, a food bank or emergency feeding organization must either be a recognized affiliate of one of the eight partner food banks with the Iowa Food Bank Association or must register with the department. To register with the department, the organization must meet the definition of “emergency feeding organization,” “food bank,” or “food pantry” as defined by the department of human services in 441—66.1(234). The department of revenue will make registration forms available on the department’s website. The department will maintain a list of recognized organizations on the department’s website.

Food banks and emergency feeding organizations that receive eligible donations shall be required to issue receipts in a format prescribed by the department for all donations received and must annually submit to the department a receipt log of all the receipts issued during the tax year. The receipt log must be submitted in the form of a spreadsheet with column specifications as provided by the department. Receipt logs showing the donations for the previous calendar year must be delivered electronically or mailed to the department postmarked by January 15 of each year. If a receipt for a taxpayer’s claim is not provided by the organization, the taxpayer’s claim will be denied.

To claim the credit, a taxpayer shall submit to the department the original receipts that were issued by the food bank or emergency feeding organization. The receipt must include quantity information completed by the food bank or emergency feeding organization, taxpayer information, and a donation valuation consistent with Section 170(e)(3)(C) of the Internal Revenue Code completed by the taxpayer. Claims must be postmarked on or before January 15 of the year following the tax year for which the claim is requested. Once the department verifies the amount of the tax credit, a letter will be sent to the taxpayer providing the amount of the tax credit and a tax credit certificate number.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is earlier. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer’s estate or trust upon the death of the taxpayer.

If the producer is a partnership, limited liability company, S corporation, estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro rata share of the individual’s earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement 2013 Iowa Acts, Senate File 452, division XVIII.
[ARC 1138C, IAB 10/30/13, effective 12/4/13]

701—42.52(422) Adoption tax credit. Effective for tax years beginning on or after January 1, 2014, an adoption tax credit is available for individual income tax equal to the amount of qualified adoption expenses paid or incurred by a taxpayer related to the adoption of a child. For an adoption finalized on or

after January 1, 2014, but before January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed \$2,500. For an adoption finalized on or after January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed \$5,000.

42.52(1) Adoption. For purposes of the credit, an adoption occurs when a child is permanently placed in Iowa by any of the following:

- a. The department of human services;
- b. An adoption service provider as defined in Iowa Code section 600A.2; or
- c. An agency that meets the provisions of the interstate compact in Iowa Code section 232.158.

42.52(2) Child. A “child” is an individual who is under the age of 18 years. “Child” does not include any individual who is 18 years of age or older.

42.52(3) Qualified adoption expenses.

a. *Generally.* “Qualified adoption expenses” means unreimbursed expenses paid or incurred in connection with the adoption of a child. Qualified adoption expenses include all fees and costs related to the adoption of a child, such as:

- (1) Medical and hospital expenses of the biological mother that are incident to the child’s birth;
- (2) Welfare agency fees and other reasonable and necessary adoption fees;
- (3) Court costs, attorney fees, and other legal fees;
- (4) Travel expenses, including amounts spent for meals and lodging while away from home; and
- (5) All other fees and costs related to the adoption of a child.

b. *Limitations.* Expenses that are eligible for the federal adoption credit as provided in Section 23(d)(1) of the Internal Revenue Code will be considered qualified adoption expenses. Expenses paid or incurred in violation of state or federal law are not qualified adoption expenses. Expenses that have been reimbursed are not qualified adoption expenses.

42.52(4) Claiming the credit.

a. *Amount eligible for credit.* For tax years beginning on or after January 1, 2014, but beginning before January 1, 2017, the first \$2,500 of qualified adoption expenses is eligible for the credit. For tax years beginning on or after January 1, 2017, the first \$5,000 of qualified adoption expenses is eligible for the credit. The maximum credit amount is determined at the time the adoption becomes final. If the qualified adoption expenses are less than the maximum credit amount, then the total amount of qualified expenses can be claimed as a credit. The amount of tax credit claimed cannot be used as an itemized deduction for adoption expenses provided in 701—subrule 41.5(3).

b. *Claiming the credit in tax years beginning on or after January 1, 2014, but before January 1, 2019.*

(1) Claiming the credit in the year the adoption becomes final. For tax years beginning on or after January 1, 2014, but before January 1, 2019, to claim an adoption tax credit, a taxpayer must claim the credit for all qualified adoption expenses paid or incurred in the tax year the adoption becomes final, up to the maximum credit amount provided in paragraph 42.52(4) “a.”

EXAMPLE: Michael and Lori are married. Michael and Lori adopt a child who is permanently placed in Iowa. The adoption process begins and becomes final in 2015. Because the adoption becomes final on or after January 1, 2014, but prior to January 1, 2017, Michael and Lori qualify for a maximum credit amount of \$2,500. Michael and Lori incur and pay unreimbursed qualified adoption expenses of \$20,000 in 2015. Michael and Lori jointly file their Iowa individual income tax return in 2015. Michael and Lori may claim an Iowa adoption tax credit of \$2,500 in 2015.

(2) Claiming the credit in years other than the year the adoption becomes final. For tax years beginning on or after January 1, 2014, but before January 1, 2019, if a taxpayer cannot claim the maximum credit amount provided in paragraph 42.52(4) “a” for the year the adoption becomes final, the taxpayer may amend a prior year’s return to claim any remaining credit for expenses paid in that prior year, or the taxpayer may claim any remaining credit on a subsequent year’s return for expenses paid in that subsequent year. If a qualified adoption expense was incurred in one tax year and paid in another tax year, the taxpayer may only claim a credit for that expense in one year. The total adoption tax credit claimed for all years combined may not exceed the maximum credit amount per adoption

provided in paragraph 42.52(4) “a.” An adjustment to a prior’s year return is subject to the limitations in rule 701—40.20(422).

EXAMPLE: Erin adopts a child as a single parent. The child is permanently placed in Iowa. The adoption process begins in 2016 and becomes final in 2017. Because the adoption becomes final on or after January 1, 2017, Erin qualifies for a maximum credit amount of \$5,000. Erin pays and incurs unreimbursed qualified adoption expenses of \$20,000 in 2016 and \$1,000 in 2017. In tax year 2017, Erin may claim an Iowa adoption tax credit equal to the \$1,000 in unreimbursed qualified adoption expenses paid and incurred in 2017. After claiming the credit for tax year 2017, Erin may amend the 2016 return to claim the remaining \$4,000 credit for unreimbursed qualified adoption expenses paid and incurred in 2016.

c. Claiming the credit in tax years beginning on or after January 1, 2019.

(1) Claiming the credit in the year the adoption becomes final. For tax years beginning on or after January 1, 2019, to claim an adoption tax credit, a taxpayer must claim the credit in the tax year the adoption is finalized for all qualified adoption expenses paid or incurred prior to or in the tax year the adoption becomes final, up to the maximum credit amount of \$5,000. A taxpayer shall not amend a prior year return in an attempt to claim the credit for unreimbursed qualified adoption expenses paid or incurred prior to the tax year in which the adoption becomes final.

EXAMPLE: Y and Z are married. Y and Z adopt a child who is permanently placed in Iowa. The adoption process begins in 2016 and becomes final in 2019. Because the adoption becomes final on or after January 1, 2017, Y and Z qualify for a maximum credit amount of \$5,000. Additionally, because the adoption becomes final on or after January 1, 2019, Y and Z may claim an Iowa adoption tax credit for unreimbursed qualified adoption expenses paid or incurred prior to or in the year the adoption becomes final. Y and Z incur and pay unreimbursed qualified adoption expenses of \$5,000 in 2016, \$10,000 in 2017, \$2,000 in 2018, and \$2,000 in 2019. Y and Z jointly file their Iowa individual income tax return in 2019. Y and Z may claim an Iowa adoption tax credit of \$5,000 on their 2019 Iowa income tax return. Y and Z are not allowed to amend a prior year return in an attempt to claim the credit for unreimbursed qualified adoption expenses paid or incurred prior to the tax year in which the adoption became final.

(2) Claiming the credit in years after the adoption becomes final. For tax years beginning on or after January 1, 2019, if a taxpayer cannot claim the maximum credit amount of \$5,000 for the year the adoption becomes final, the taxpayer may claim an adoption tax credit for any unreimbursed qualified adoption expenses paid or incurred after the tax year in which the adoption becomes final in the tax year in which unreimbursed qualified adoption expenses are paid or incurred.

EXAMPLE: W and X are married. W and X adopt a child who is permanently placed in Iowa. The adoption process begins in 2018 and becomes final in 2019. Because the adoption becomes final on or after January 1, 2017, W and X qualify for a maximum credit amount of \$5,000. W and X incur and pay unreimbursed qualified adoption expenses of \$1,000 in 2018, and \$1,000 in 2019. W and X jointly file their Iowa individual income tax return in 2019. W and X may claim the Iowa adoption tax credit in 2019 in the amount of \$2,000. In 2020, W and X incur and pay \$5,000 in unreimbursed qualified adoption expenses in connection to the adoption finalized in 2019. W and X may claim the remaining \$3,000 credit on their jointly filed Iowa individual income tax return for 2020 for unreimbursed qualified adoption expenses incurred and paid in 2020. W and X shall not amend their 2019 return to reflect the additional unreimbursed qualified adoption expenses from 2020.

d. Claiming the credit by two adoptive parents. The adoption tax credit may only be claimed by a person who adopted the child. When a married couple adopts a child together and the couple files jointly on the same return, the credit may only be claimed once between the couple. When any other two persons adopt a child together, including married persons filing separately on the same or different returns or any unmarried persons filing on separate returns, the credit must be divided between the adoptive parents. Two adoptive parents, other than persons who are married filing jointly, may agree to divide the credit in any way. The total adoption tax credit claimed for all years by both parents combined may not exceed the maximum credit amount per adoption provided in paragraph 42.52(4) “a.”

EXAMPLE: Peyton and Kerry are unmarried individuals. Peyton and Kerry adopt a child together. The child is permanently placed in Iowa. The adoption process begins and ends in 2018. Because the

adoption becomes final on or after January 1, 2017, Peyton and Kerry qualify for a maximum credit amount of \$5,000. However, Peyton and Kerry pay and incur unreimbursed qualified adoption expenses of only \$3,000 in 2018. Accordingly, Peyton and Kerry may claim an Iowa adoption tax credit of \$3,000 in 2018, which must be divided between them. Peyton and Kerry agree that Peyton will claim \$2,000 of the credit, and Kerry will claim \$1,000 of the credit.

e. Adoption of a special needs child. If a taxpayer adopts a special needs child, the credit under this rule cannot exceed the amount of qualified adoption expenses paid or incurred by the taxpayer during the tax year. The amount of the federal adoption tax credit claimed for the adoption of a special needs child does not affect the amount of the credit under this rule.

EXAMPLE: Francis and Mandy are married. Francis and Mandy adopt a special needs child who is permanently placed in Iowa. The adoption process begins and ends in 2017. Francis and Mandy paid and incurred \$2,000 in unreimbursed qualified adoption expenses related to the adoption during 2017. For federal purposes, Francis and Mandy qualify for a maximum adoption tax credit of \$13,570 for the adoption of a special needs child. For Iowa purposes, Francis and Mandy qualify for a maximum adoption tax credit of \$2,000, which is equal to the amount of unreimbursed qualified adoption expenses they paid or incurred related to the adoption during the tax year.

f. Adoption tax credit in excess of tax liability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

This rule is intended to implement Iowa Code section 422.12A as amended by 2016 Iowa Acts, House File 2468; 2017 Iowa Acts, Senate File 433; and 2019 Iowa Acts, House File 779.

[ARC 1665C, IAB 10/15/14, effective 11/19/14; ARC 3749C, IAB 4/11/18, effective 5/16/18; ARC 5308C, IAB 12/2/20, effective 1/6/21]

701—42.53(15) Workforce housing tax incentives program. A business which qualifies under the workforce housing tax incentives program is eligible to receive tax incentives for individual income tax. The workforce housing tax incentives program replaced the eligible housing business enterprise zone program. An eligible business under the workforce housing tax incentives program must be approved by the economic development authority. The administrative rules for the workforce housing tax incentives program for the economic development authority may be found at 261—Chapter 48. The general assembly has mandated that the economic development authority and the department of revenue adopt rules to jointly administer Iowa Code sections 15.351 to 15.356. In general, the economic development authority is responsible for evaluating whether projects meet the requirements for a workforce housing tax incentives program while the department of revenue administers tax credit claims and transfers.

42.53(1) Definitions.

“Costs directly related” means the same as defined in rule 261—48.3(15).

“Qualifying new investment” means the same as defined in rule 261—48.3(15).

42.53(2) Workforce housing tax incentives. The economic development authority will allocate no more than \$20 million in tax incentives for this program for any fiscal year, \$5 million of which shall be reserved for allocation to qualified housing projects in small cities, as defined in Iowa Code section 15.352(10), that are registered on or after July 1, 2017. A housing business that has entered into an agreement with the economic development authority is eligible to receive the tax incentives described in the following paragraphs:

a. Sales tax refund. A housing business may claim a refund of the sales and use tax described in rule 701—12.19(15).

b. Investment tax credit.

(1) **Computation of the credit.** A housing business may claim a tax credit in an amount not to exceed 10 percent of the qualifying new investment in a housing project not located in a small city, or 20 percent of the qualifying new investment in a housing project located in a small city.

(2) **Allocation of the tax credit to the individual owners of the entity or beneficiaries of an estate or trust.** An individual may claim a tax credit if the housing business is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The

amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

(3) Refundability. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable.

(4) Carryforward. Any tax credit in excess of the taxpayer's liability may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

42.53(3) *Claiming the tax credit—information required.* The taxpayer must receive a tax credit certificate from the economic development authority to claim the eligible housing business tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.53(5). The tax credit certificate must be included with the income tax return for the tax period in which the housing is ready for occupancy.

42.53(4) *Basis adjustment.* The increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the investment tax credit. For example, if a new housing project had qualifying new investment of \$1 million which resulted in a \$100,000 investment tax credit for Iowa tax purposes, the basis of the property for Iowa income tax purposes would be \$900,000.

42.53(5) *Transfer of the credit.*

a. Submission of transferred tax credit certificate to the department—information required. Tax credit certificates issued under an agreement entered into pursuant to subrule 42.53(3) may be transferred to any person. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue. However, tax credit certificate amounts of less than the minimum amount established in rule by the economic development authority shall not be transferable.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

c. Claiming the transferred tax credit. A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income, or franchise tax purposes.

d. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than the minimum amount established in rule by the economic development authority.

e. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in subparagraph 42.53(2) "b"(4) shall apply.

42.53(6) *Repayment of benefits.* If the housing business fails to maintain the requirements of Iowa Code section 15.353, the taxpayer may be required to repay all or a portion of the tax incentives the taxpayer received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the

tax incentives forfeited by failure of the taxpayer to maintain the requirements of Iowa Code section 15.353. This repayment is required because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.*, Docket No. 11DORF 042-044, June 11, 2012.

This rule is intended to implement Iowa Code sections 15.354 and 15.355.
[ARC 1744C, IAB 11/26/14, effective 12/31/14; ARC 3837C, IAB 6/6/18, effective 7/11/18]

701—42.54(404A,422) Historic preservation and cultural and entertainment district tax credit for projects registered on or after July 1, 2014, and before August 15, 2016. For projects registered before August 15, 2016, the department of cultural affairs is authorized by the general assembly to award tax credits for a percentage of the qualified rehabilitation expenditures on a qualified rehabilitation project as described in the historic preservation and cultural and entertainment district tax credit program, Iowa Code chapter 404A. The program is administered by the department of cultural affairs with the assistance of the department of revenue. The general assembly has mandated that the department of cultural affairs and the department of revenue adopt rules to jointly administer Iowa Code chapter 404A. In general, the department of cultural affairs is responsible for evaluating whether projects comply with the prescribed standards for rehabilitation while the department of revenue is responsible for evaluating whether projects comply with the tax aspects of the program.

2014 Iowa Acts, House File 2453, amended the historic preservation and cultural and entertainment district tax credit program effective July 1, 2014. The department of revenue's provisions for projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014, are found in rule 701—42.19(404A,422). The department of revenue's provisions for projects registered on or after July 1, 2014, and before August 15, 2016, are found in this rule. The department of cultural affairs' rules related to this program may be found at 223—Chapter 48.

2016 Iowa Acts, House File 2443, amended the program and transferred primary responsibility for its administration to the economic development authority effective August 15, 2016. Effective August 15, 2016, the program is administered by the economic development authority with the assistance of the department of cultural affairs and the department of revenue. The department of revenue's provisions for projects registered on or after August 15, 2016, are found in rule 701—42.55(404A,422). The economic development authority's rules related to the program may be found at 261—Chapter 49. When adopted, the department of cultural affairs' rules related to the program will be found in 223—Chapter 48.

Notwithstanding anything contained herein to the contrary, the department of cultural affairs shall not reserve tax credits under 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1, for applicants that do not have an approved Part 2 application and a tax credit reservation on or before June 30, 2014. Projects with approved Part 2 applications and provisional tax credit reservations on or before June 30, 2014, shall be governed by 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1; by 223—Chapter 48, Division I; and by rule 701—42.19(404A,422). Projects registered on or after July 1, 2014, but before August 15, 2016, shall be governed by 2014 Iowa Code chapter 404A as amended by 2014 Iowa Acts, House File 2453; by 223—Chapter 48, Division II; and by this rule. Projects registered on or after August 15, 2016, shall be governed by 2016 Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443; by 261—Chapter 49; and by rule 701—42.55(404A,422).

42.54(1) *Application, registration, and agreement for the historic preservation and cultural and entertainment district tax credit.* Taxpayers that want to claim an income tax credit for completing a qualified rehabilitation project must submit an application for approval of the project. The application forms and instructions for the historic preservation and cultural and entertainment district tax credit are

available on the department of cultural affairs' website. Once a project is registered, the taxpayer must enter into an agreement with the department of cultural affairs to be eligible for the credit.

42.54(2) *Computation of the amount of the historic preservation and cultural and entertainment district tax credit.* The amount of the historic preservation and cultural and entertainment district tax credit is a maximum of 25 percent of the qualified rehabilitation expenditures verified by the department of cultural affairs and the department of revenue following project completion, up to the amount specified in the agreement between the taxpayer and the department of cultural affairs.

42.54(3) *Qualified rehabilitation expenditures.* "Qualified rehabilitation expenditures" means the same as defined in rule 223—48.22(404A) of the historical division of the department of cultural affairs. In general, the department of cultural affairs evaluates whether expenditures comply with the prescribed standards for rehabilitation while the department of revenue evaluates whether expenditures comply with the tax requirements to be considered qualified rehabilitation expenditures, including whether the expenditures are in accordance with the requirements of Internal Revenue Code Section 47 and its related regulations.

a. Type of property and services eligible. In accordance with Iowa Code section 404A.1(6), the types of property and services claimed for the state tax credit must be "qualified rehabilitation expenditures" in accordance with Internal Revenue Code Section 47. Notwithstanding the foregoing sentence, expenditures incurred by an eligible taxpayer that is a nonprofit organization as defined in Iowa Code section 404A.1(4) shall be considered "qualified rehabilitation expenditures" if they are for "structural components," as that term is defined in Treasury Regulation § 1.48-1(e)(2), and for amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees and other construction-related costs.

b. Effect of financing sources on eligibility of expenditures. Qualified rehabilitation expenditures do not include expenditures financed by federal, state, or local government grants or forgivable loans unless otherwise allowed under Section 47 of the Internal Revenue Code. For an eligible taxpayer that is a nonprofit organization as defined in Iowa Code section 404A.1(4) that is not eligible for the federal rehabilitation credit, or another person that is not eligible for the federal rehabilitation credit, expenditures financed with federal, state, or local government grants or forgivable loans are not qualified rehabilitation expenditures.

42.54(4) *Completion of the qualified rehabilitation project and claiming the tax credit on the Iowa return.* After the taxpayer completes a qualified rehabilitation project, the taxpayer will be issued a certificate of completion of the project from the department of cultural affairs if the project complies with the federal standards, as defined in rule 223—48.22(404A). After the department of cultural affairs and the department of revenue verify the taxpayer's eligibility for the tax credit, the department of cultural affairs shall issue a tax credit certificate.

a. Claiming the credit. For the taxpayer to claim the credit, the certificate must be included with the taxpayer's income tax return for the tax year in which the rehabilitation project is completed or the income tax return for any tax year within the five years following the tax year of project completion. Taxpayers that elect to delay claiming the credit to a later tax year return as described in this paragraph are subject to the carryforward limitations described in paragraph 42.54(4) "d" below. The credit may be claimed on an amended return so long as the amended return is filed within the statute of limitations applicable to the tax year for which the amended tax return is being filed.

b. Information required. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the amount of the historic preservation and cultural and entertainment district tax credit, and, if applicable, an indication of whether the credit is nonrefundable (see paragraph 42.54(4) "c" below). In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.54(5). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, and the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate.

c. Refundability. A historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable with interest computed under Iowa Code section 422.25. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. To receive a refundable credit, the taxpayer must elect to receive the credit as refundable at the Part 3 stage of the application process administered by the department of cultural affairs. Once the taxpayer elects to receive a nonrefundable credit, the taxpayer cannot elect to change the credit to a refundable credit or vice versa. See department of cultural affairs' 223—Chapter 48. If the taxpayer is a transferee, the taxpayer may elect to receive the credit as refundable or nonrefundable when the taxpayer applies to the department of revenue for transfer of the tax credit as described in subrule 42.54(5).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 42.54(4) "b," the amount in excess of the taxpayer's tax liability may be carried forward for five years following the tax year in which the project is completed, or until it is depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer is first eligible to claim the credit. Regardless of whether the taxpayer elects to claim the tax credit on a tax return for a year that is later than the year of project completion as described in paragraph 42.54(4) "a," the taxpayer must utilize the entire credit within five years following the tax year of the project completion as described in this paragraph; any credit amount that is not utilized within the five-year carryforward period is forfeited. The five-year carryforward limitation does not apply if the taxpayer elects to receive a refundable credit, the excess of which may be credited to future tax years as an overpayment.

e. Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity or beneficiaries of an estate or trust. A partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation. For an individual claiming a tax credit of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust.

42.54(5) Transfer of the historic preservation and cultural and entertainment district tax credit. The historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, for any tax year the original transferor could have claimed the tax credit. Transferees must elect to receive either a refundable or nonrefundable tax credit. Once the transferee elects to receive a nonrefundable credit, the transferee cannot elect to change the credit to a refundable credit or vice versa. A tax credit certificate of less than \$1,000 shall not be transferable.

a. Transfer process—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement that contains the transferee's name, address and tax identification number, the amount of the tax credit being transferred, an election to receive either a refundable or nonrefundable tax credit, and the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of the nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the

partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The certificate must have the same information required for the original tax certificate and must have the same expiration date as the original tax credit certificate. The transferee may not claim a tax credit until a replacement certificate identifying the transferee as the proper holder has been issued.

b. Consideration. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than \$1,000.

d. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 42.54(4) “d” shall apply.

42.54(6) Appeals. Challenges to an action by the department of revenue related to tax credit transfers, the claiming of tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to 701—Chapter 7.

This rule is intended to implement Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443, and Iowa Code section 422.11D.

[ARC 1968C, IAB 4/15/15, effective 5/20/15; ARC 2928C, IAB 2/1/17, effective 3/8/17]

701—42.55(404A,422) Historic preservation and cultural and entertainment district tax credit for projects registered on or after August 15, 2016. The economic development authority is authorized by the general assembly to award tax credits for a percentage of the qualified rehabilitation expenditures on a qualified rehabilitation project as described in the historic preservation and cultural and entertainment district tax credit program, Iowa Code chapter 404A. The program is administered by the economic development authority with the assistance of the department of cultural affairs and the department of revenue. The general assembly has mandated that the economic development authority, the department of cultural affairs and the department of revenue adopt rules as necessary to administer Iowa Code chapter 404A. In general, the department of revenue is responsible for administering tax credit transfers and processing and auditing tax credits claimed on returns. For the economic development authority’s rules on the credit program, see 261—Chapter 49. For the department of cultural affairs’ rules on the credit program, see 223—Chapter 48.

42.55(1) Program transition. 2016 Iowa Acts, House File 2443, made several changes to the credit program, including transferring primary responsibility for the program’s administration from the department of cultural affairs to the economic development authority. Projects registered prior to August 15, 2016, remain under the purview of the department of cultural affairs, with assistance from the department of revenue. For department of revenue rules related to projects registered prior to August 15, 2016, see rules 701—42.54(404A,422) and 701—42.19(404A,422).

42.55(2) Application, registration, and agreement for the historic preservation and cultural and entertainment district tax credit. For rules on the application, registration, and agreement process, see economic development authority rules, 261—Chapter 49.

42.55(3) Computation of the amount of the historic preservation and cultural and entertainment district tax credit. The amount of the historic preservation and cultural and entertainment district tax credit is a maximum of 25 percent of the qualified rehabilitation expenditures verified by the economic development authority following project completion, up to the amount specified in the agreement between the taxpayer and the economic development authority. For more information on the credit computation, see economic development authority rules, 261—Chapter 49. The amount remains subject to audit by the department of revenue when the credit is claimed on the taxpayer’s tax return.

42.55(4) *Qualified rehabilitation expenditures.* “Qualified rehabilitation expenditures” means the same as defined in Iowa Code section 404A.1(7) and rule 261—49.5(404A) of economic development authority rules. In the event of an audit, the department of revenue evaluates whether expenditures comply with the agreement between the economic development authority and the eligible taxpayer, as well as with applicable statutes and rules, including Internal Revenue Code Section 47 and its related regulations.

42.55(5) *Completion of the qualified rehabilitation project and claiming the tax credit.* After the economic development authority verifies the taxpayer’s eligibility for the tax credit, the economic development authority shall issue a tax credit certificate. For more information on credit certificate issuance, see economic development authority rules, 261—Chapter 49.

a. Claiming the credit. For the taxpayer to claim the credit, the certificate must be included with the taxpayer’s income tax return for the tax year in which the rehabilitation project is completed or the income tax return for any year within the five years following the year of project completion. Taxpayers that elect to delay claiming the credit to a later year’s return as described in this paragraph are subject to the carryforward limitations described in paragraph 42.55(5) “d” below. The credit may be claimed on an amended return so long as the amended return is filed within the statute of limitations applicable to the tax year for which the amended tax return is being filed.

b. Information required. The tax credit certificate shall include the taxpayer’s name, the taxpayer’s address, the taxpayer’s tax identification number, the address or location of the rehabilitation project, the date the project was completed, the amount of the historic preservation and cultural and entertainment district tax credit, and, if applicable, an indication of whether the credit is nonrefundable (see paragraph 42.55(5) “c” below). In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.55(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, and the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate.

c. Refundability. A historic preservation and cultural and entertainment district tax credit in excess of the taxpayer’s tax liability is fully refundable with interest computed under Iowa Code section 422.25. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. To receive a refundable credit, the taxpayer must elect to receive the credit as refundable at the Part 3 stage of the application process administered by the economic development authority. See the economic development authority’s rule 261—49.15(404A). Once the taxpayer elects to receive a nonrefundable credit, the taxpayer cannot elect to change the credit to a refundable credit or vice versa. If the taxpayer is a transferee, the taxpayer may elect to receive the credit as refundable when the taxpayer applies to the department of revenue for transfer of the tax credit as described in subrule 42.55(6).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 42.55(5) “b,” the amount in excess of the taxpayer’s tax liability may be carried forward for five years following the tax year in which the project is completed, or until it is depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer is first eligible to claim the credit. Regardless of whether the taxpayer elects to claim the tax credit on a tax return for a year that is later than the year of project completion as described in paragraph 42.55(5) “a,” the taxpayer must utilize the entire credit within five years following the tax year of the project completion as described in this paragraph; any credit amount that is not utilized within the five-year carryforward period is forfeited. The five-year carryforward limitation does not apply if the taxpayer elects to receive a refundable credit, the excess of which may be credited to future tax years as an overpayment.

e. Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity or beneficiaries of an estate or trust. A partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings

of the partnership, limited liability company or S corporation. For an individual claiming a tax credit of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust.

42.55(6) *Transfer of the historic preservation and cultural and entertainment district tax credit.* The historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, for any tax year that the original transferor could have claimed the tax credit. Transferees must elect to receive either a refundable or nonrefundable tax credit. Once the transferee elects to receive a nonrefundable credit, the transferee cannot elect to change the credit to a refundable credit or vice versa. A tax credit certificate of less than \$1,000 shall not be transferable.

a. Transfer process—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement that contains the transferee's name, address and tax identification number, the amount of the tax credit being transferred, an election to receive either a refundable or nonrefundable tax credit, and the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of the nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The certificate must have the same information required for the original tax credit certificate and must have the same expiration date as the original tax credit certificate. The transferee may not claim a tax credit until a replacement certificate identifying the transferee as the proper holder has been issued.

b. Consideration. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than \$1,000.

d. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 42.55(4)“d” shall apply.

42.55(7) *Appeals.* Challenges to an action by the department of revenue related to tax credit transfers, the claiming of tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to 701—Chapter 7.

This rule is intended to implement Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443, and Iowa Code section 422.11D.

[ARC 2928C, IAB 2/1/17, effective 3/8/17]

701—42.56(15,422) Renewable chemical production tax credit program. An eligible business that has received a renewable chemical production tax credit certificate from the economic development authority may claim a tax credit against individual income tax. The credit is equal to the product of five cents multiplied by the number of pounds of renewable chemicals produced in Iowa from biomass feedstock by the eligible business during a given production year, subject to the limitations described in Iowa Code sections 15.315 through 15.322, 261—Chapter 81, and this rule. The economic development authority's rules on eligibility for the credit may be found in 261—Chapter 81.

42.56(1) Application and agreement for the credit. To be eligible for the tax credit, the eligible business must apply to and enter into an agreement with the economic development authority. The economic development authority's rules on the application and agreement process may be found in 261—Chapter 81.

42.56(2) Computation of the amount of credit and certificate issuance. Upon establishing that all requirements of the program and the agreement have been fulfilled and verifying the taxpayer's eligibility for the tax credit, the economic development authority calculates the credit. Then the economic development authority issues the related tax credit certificate to the eligible business stating the amount of the renewable chemical production tax credit that the eligible business may claim. A tax credit certificate shall not be issued by the economic development authority prior to July 1, 2018. The economic development authority's rules on credit certificate issuance may be found in 261—Chapter 81.

42.56(3) Claiming the tax credit.

a. Claiming the credit, generally. To claim the credit, a taxpayer must include one or more tax credit certificates with the taxpayer's tax return for the tax year during which the eligible business was issued the tax credit certificate or certificates. If the taxpayer claiming the credit has already filed a return for the tax year for which the credit certificate was issued, the taxpayer may claim the credit on an amended return. The taxpayer must file the amended return within the statute of limitations applicable to such amended return. No tax credit may be claimed under this program by a taxpayer prior to September 1, 2018.

b. Claiming the credit of a pass-through entity. To claim the credit of an eligible business that is a pass-through entity, an individual taxpayer must claim the credit on the tax return for the tax year during which the eligible business received the tax credit certificate. Such tax year may be either the tax year of the eligible business or of the individual.

EXAMPLE: A partnership has a fiscal year of September 2017 through August 2018. The partnership receives a renewable chemical production tax credit certificate under this program in July 2018, which is during the partnership's 2017 tax year. A partner in the partnership files individual returns on a calendar year basis, which means that the credit was issued in the partner's 2018 tax year. That partner may file an amended 2017 tax return to claim the credit based on the partnership's tax year, or that partner may claim the credit on the partner's 2018 tax return based on the partner's own tax year.

c. Information required. The tax credit certificate shall include the taxpayer's name, address, tax identification number, the amount of the credit, the name of the eligible business, and any other information required by the department of revenue.

d. Allocation to the individual owners of the entity or beneficiaries of an estate or trust. An individual may claim the credit of a partnership, limited liability company, S corporation, cooperative organized under Iowa Code chapter 501 and filing as a partnership for tax purposes, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based on the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, cooperative, estate, or trust.

e. Refundability. Any credit in excess of the tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

f. Transferability. Tax credit certificates shall not be transferred to any other person.

g. Rescission and recapture. The tax credit certificate, unless rescinded by the economic development authority, shall be accepted by the department of revenue, subject to any conditions or restrictions placed upon the face of the tax credit certificate by the economic development authority.

and subject to the limitations of the program. Should the economic development authority reduce, terminate, or rescind any tax credits issued under the program, the eligible business may be subject to the repayment or recapture of any credits already claimed. The economic development authority's rules related to the program may be found in 261—Chapter 81. The repayment of tax credits or recapture by the department of revenue shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

This rule is intended to implement Iowa Code section 422.10B.
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◊ Two or more ARCs

CHAPTER 43
ASSESSMENTS AND REFUNDS
[Prior to 12/17/86, Revenue Department[730]]

701—43.1(422) Notice of discrepancies.

43.1(1) *Notice of adjustments.* A department employee designated by the director to examine returns and make audits who discovers discrepancies in returns or learns that the income of the taxpayer may not have been listed, in whole or in part, or that no return was filed when one was due is authorized to notify the taxpayer of this discovery by ordinary mail. The notice shall not be termed an assessment, and it may inform the taxpayer what amount would be due if the information discovered is correct.

43.1(2) *Right of taxpayer upon receipt of notice of adjustment.* A taxpayer who has received notice of an adjustment in connection with a return may pay the additional amount stated to be due. If payment is made, and the taxpayer wishes to contest the matter, the taxpayer should then file a claim for refund. However, payment will not be required until assessment has been made (although interest will continue to accrue if payment is not made). If no payment is made, the taxpayer may discuss with the agent, auditor, clerk or employee who notified the taxpayer of the discrepancy, either in person or through correspondence, all matters of fact and law which the taxpayer considers relevant to the situation. Documents and records supporting the taxpayer's position may be required.

43.1(3) Rescinded, effective 7/24/85.

This rule is intended to implement Iowa Code sections 422.25 and 422.30.

701—43.2(422) Notice of assessment, supplemental assessments and refund adjustments. If after following the procedure outlined in 43.1(2) no agreement is reached, and the taxpayer does not pay the amount determined to be correct, a notice of assessment shall be sent to the taxpayer by mail. If the period in which the correct amount of tax can be determined is nearly at an end, either a notice of assessment without compliance with 43.1(2) or a jeopardy assessment may be issued. All notices of assessment shall bear the signature of the director.

The department may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—7.8(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in the appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation. Nothing in this rule shall prevent the making of an assessment or refund adjustment for the purpose of taking into account the impact upon Iowa net income of federal audit adjustments.

This rule is intended to implement Iowa Code sections 422.25 and 422.30.

[ARC 0251C, IAB 8/8/12, effective 9/12/12]

701—43.3(422) Overpayments of tax. The following are provisions for refunding or crediting to the taxpayer's deposits or payments for tax in excess of amounts legally due.

43.3(1) *Claims for refund.* A claim for refund is a formal request made by the taxpayer or the taxpayer's personal representative to the department of revenue for repayment of state income tax that was paid with the taxpayer's previously filed individual income tax return. In order for a claim for refund to be considered to be a valid document, the taxpayer or the taxpayer's personal representative must file the claim on an IA 1040X Amended Return Form or on an IA 1040 Income Tax Return Form for the appropriate tax year, with the notation "Amended for Refund" clearly shown on the face of the return form. The taxpayer or the taxpayer's personal representative must file the claim for refund with the department under separate cover so the claim is not filed with another tax return or with other documents or forms submitted to the department.

In addition, the claim for refund must be filed within one of the time periods specified in Iowa Code section 422.73(1) in order for the refund claim to be timely so that the claim may be considered on its merits by the department.

If the department determines that the taxpayer's claim is without merit and the claim for refund should be rejected, the department will notify the taxpayer or the taxpayer's personal representative by mail that the claim for refund has been rejected and of the reason for rejection. In addition, the rejection letter will advise the taxpayer that the taxpayer has 60 days from the date of the letter to file a protest of the department's rejection of the claim for refund. The taxpayer's appeal of the rejection of the claim for refund must be filed in accordance with rule 701—7.8(17A).

43.3(2) *Offsetting refunds.* A taxpayer shall not offset a refund or overpayment of tax for one year as a prior payment of tax of a subsequent year on the return of a subsequent year without authorization in writing by the department. The department, may, however, apply an overpayment, or a refund otherwise due the taxpayer, to any tax due or to become due from the taxpayer.

43.3(3) *Setoffs of qualifying debts administered by the department of administrative services.* Before any refund or rebate from a taxpayer's individual income tax return is considered for purposes of setoff, the refund or rebate must be applied first to any outstanding tax liability of that taxpayer with the department of revenue. After all outstanding tax liabilities are satisfied, any remaining balance of refund or rebate will be set off against any debt of the taxpayer, setoff of which is overseen by the department of administrative services pursuant to 2003 Iowa Acts, House File 534, section 86.

43.3(4) *College loan setoff.* Rescinded IAB 11/12/03, effective 12/17/03.

43.3(5) *District court debts setoff.* Rescinded IAB 11/12/03, effective 12/17/03.

43.3(6) *Overpayment credited to estimated tax.* Any remaining balance of overpayment, at the election of the taxpayer, will be refunded to the taxpayer or credited as a first payment of the taxpayer's estimated tax for the following year. However, a taxpayer may elect to credit an overpayment from a return to the estimated tax for the following tax year only in cases when the return is filed in the same calendar year that the return is due. For example, a taxpayer's 1994 return is due on April 30, 1995. If the taxpayer files that return on or before December 31, 1995, the taxpayer can elect to credit an overpayment on that return to estimated tax for 1995, and this election will be honored by the department. See also rule 701—49.7(422).

If an overpayment of income tax is shown as a credit to estimated tax for the succeeding taxable year, the amount shall be considered as a payment of the income tax for the succeeding taxable year and no claim for credit or refund of the overpayment shall be allowed on the return where the overpayment arose.

When a taxpayer elects to have an overpayment credited to estimated tax for the succeeding year, interest may properly be assessed on a deficiency of income tax for the year in which the overpayment arose. If a taxpayer elects to have all or part of an overpayment shown on the return applied to the estimated income tax for the succeeding taxable year, the election is binding to the taxpayer.

An overpayment of tax may be used to offset any outstanding tax liability owed by the taxpayer, but once an elected amount is credited as a payment of estimated tax for the succeeding year, it loses its character as an overpayment for the year in which it arose and thereafter cannot offset any subsequently determined tax liability.

43.3(7) *Refunds—statute of limitations for years ending before January 1, 1979.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(8) *Refunds—statute of limitations for tax years ending on or after January 1, 1979.* The statute of limitations with respect to which refunds or credit may be claimed are:

a. The later of

- (1) Three years after due date of payment upon which refund or credit is claimed; or
- (2) One year after which such payment was actually made.

b. Six months from the date of final disposition of any federal income tax matter with respect to the particular tax year. The taxpayer, however, must have notified the department of the matter within six months after the specified three-year period, contained in paragraph "a," subparagraph (1), above. The term "matter" includes, but is not limited to, the execution of waivers and commencement of audits.

The refund is limited to those matters between the taxpayer and the Internal Revenue Service which affect Iowa taxable income. *Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review*, 414 N.W.2d 113 (Iowa 1987).

c. For federal audits finalized on or after July 1, 1991, the taxpayer must claim a refund or credit within six months of final disposition of any federal income tax matter with respect to the particular tax year regardless when the tax year ended. It is not necessary for the taxpayer to have previously notified the department within the period of limitations specified in 43.3(8)“a”(1) above of a matter between the taxpayer and the Internal Revenue Service in order to receive a refund or credit. The term “matter” includes, but is not limited to, the execution of waivers and commencement of audits. The refund or credit is limited to those matters between the taxpayer and the Internal Revenue Service which affect Iowa taxable income. *Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review*, 414 N.W. 2d 113 (Iowa 1987).

d. Three years after the date of the return for the year in which a net operating loss or capital loss occurs, which if carried back results in a reduction of tax in a prior period and an overpayment results.

43.3(9) Refunds—statute of limitations for individuals who died as a result of hostile action. Rescinded IAB 10/12/94, effective 11/16/94.

43.3(10) Refunds—statute of limitations for MIAs and spouses of MIAs. Rescinded IAB 10/12/94, effective 11/16/94.

43.3(11) Refunds—statute of limitations for insolvent farmers who received capital gains from farmland sold in 1982 and 1983. Rescinded IAB 10/12/94, effective 11/16/94.

43.3(12) Refunds—statute of limitations for individuals with certain charitable contributions. Rescinded IAB 10/12/94, effective 11/16/94.

43.3(13) Refunds—statute of limitations for taxpayers who paid state income tax on 1988 returns on certain supplemental assistance payments. Rescinded IAB 11/24/04, effective 12/29/04.

43.3(14) Refunds—statute of limitations for taxpayers who paid state income tax on returns for tax years where federal income tax was refunded due to a provision of the Taxpayer Relief Act of 1997. Rescinded IAB 9/19/12, effective 10/24/12.

43.3(15) Refunds—statute of limitations for taxpayers who paid 90 percent of the tax by the due date and filed the original return in the six-month extended period. If a taxpayer has paid 90 percent of the income tax required to be shown due by the original due date of the return and has filed the original income tax return sometime in the six-month extended period after the original due date, the taxpayer may file an amended return by October 31 of the third year following the year the original return was due and shall be within the statute of limitations for refund. This position is supported by the Iowa Supreme Court in *Conoco, Inc. v. Iowa Department of Revenue and Finance*, 477 N.W.2d 377 (Iowa 1991). See also 701—subrule 39.2(4) which pertains to the extended period for filing the Iowa income tax return when 90 percent of the tax is paid by the original due date of the Iowa income tax return.

EXAMPLE 1. Joe Barnes had paid at least 90 percent of the tax shown due on his 1999 Iowa income tax return by the April 30 original due date and filed his original 1999 Iowa return on May 15, 2000. Mr. Barnes determined that he had failed to claim several deductions on the original 1999 Iowa return, so he filed an amended 1999 return on October 31, 2003. The amended return was filed within the three-year statute of limitations for refund since it was filed within three years of the extended due date of the return, October 31, 2000. The six-month extended due date applied in this case because the original return was filed within the six-month extended period.

EXAMPLE 2. Fred Jones paid 90 percent of the tax shown due on his 1999 return by the April 30 original due date and filed the original return on or before the April 30, 2000, original due date for this return. Mr. Jones determined that when he filed the original 1999 Iowa return, he failed to claim the Iowa income tax withheld from a part-time job he held in 1999. Mr. Jones filed an amended 1999 Iowa return on May 15, 2003, to claim the Iowa tax withheld that he had failed to claim on the original return. This amended return was rejected by the department because it was not filed within three years of the

due date of the return. Although Mr. Jones had paid 90 percent of the tax by the due date, the due date was not extended because the original return had been filed by the due date of April 30, 2000.

This rule is intended to implement Iowa Code sections 421.17, 422.2 and 422.16 and section 422.73 as amended by 2012 Iowa Acts, Senate File 2328.

[ARC 0251C, IAB 8/8/12, effective 9/12/12; ARC 0337C, IAB 9/19/12, effective 10/24/12; ARC 1303C, IAB 2/5/14, effective 3/12/14]

701—43.4(422) Optional designations of funds by taxpayer.

43.4(1) *Iowa fish and game protection fund.*

a. A taxpayer filing an individual income tax return may designate a checkoff of \$1 or more to be donated to the Iowa fish and game protection fund. If the overpayment shown on the return or the payment remitted with the return is insufficient to pay the amount designated to the Iowa fish and game protection fund, the amount credited to the fund will be reduced accordingly. The designation to the fund is irrevocable and cannot be made on an amended return.

EXAMPLE A: Overpayment as shown on the return is \$50. \$25 is designated to the fund. Due to an error on the return, only \$20 is an overpayment. The taxpayer would not receive any refund, and all \$20 of the overpayment would be credited to the fund.

EXAMPLE B: Overpayment as shown on the return is \$50. \$25 is designated to the fund. Due to an error on the return, no overpayment occurred, but instead the taxpayer owes \$20. No money would be credited to the fund.

EXAMPLE C: Amount shown due on the return is \$30. \$20 is designated to the fund. A \$50 payment was made with the return. Due to an error on the return, the taxpayer owes \$40. Only \$10 would be credited to the fund.

b. A designation to the Iowa fish and game protection fund may be allowed only after the taxpayer's obligations to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, and other state agencies are satisfied.

c. On or before January 31 of the year following each year in which returns with the Iowa fish and game protection fund checkoff are due, the department of revenue shall certify the amount designated to the Iowa fish and game protection fund and report this amount to the state treasurer.

43.4(2) *State fair foundation fund checkoff.*

a. A taxpayer filing an individual income tax return may designate a checkoff of \$1 or more to be donated to the foundation fund of the Iowa state fair foundation. If the overpayment shown on the return or the payment remitted with the return is insufficient to pay the amount designated to the foundation fund, the amount credited to the foundation fund will be reduced accordingly. The designation to the foundation fund is irrevocable and cannot be made on an amended return.

b. A designation to the Iowa state fair foundation fund may be allowed only after the taxpayer's obligations to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, and the Iowa fish and game protection fund checkoff are satisfied.

c. On or before January 31 of the year following each year in which returns with the Iowa state fair foundation fund checkoff are due, the department of revenue shall transfer the total amount designated to the Iowa state fair foundation fund.

43.4(3) *Child abuse prevention program fund checkoff.*

a. A taxpayer filing an individual income tax return may designate a checkoff of \$1 or more to be donated to the child abuse prevention program fund. If the overpayment shown on the return or the payment remitted with the return is insufficient to pay the amount designated by the taxpayer to the child abuse prevention program fund, the amount credited to the child abuse prevention program fund will be reduced accordingly. The designation to the child abuse prevention program fund is irrevocable and cannot be made on an amended return.

b. A designation to the child abuse prevention program fund may be allowed only after the taxpayer's obligations to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa fish and game protection fund checkoff, and the state fair foundation fund checkoff are satisfied.

c. On or before January 31 of the year following each year in which returns with the child abuse prevention program fund checkoff are due, the department of revenue shall transfer the total amount designated to the child abuse prevention program fund.

43.4(4) *Joint veterans trust fund and volunteer fire fighter preparedness fund checkoff.*

a. A taxpayer filing an individual income tax return may designate a checkoff of \$1 or more to be donated jointly to the veterans trust fund and volunteer fire fighter preparedness fund. If the overpayment shown on the return or the payment remitted with the return is insufficient to pay the amount designated by the taxpayer to the veterans trust fund and volunteer fire fighter preparedness fund, the amount credited to the veterans trust fund and volunteer fire fighter preparedness fund will be reduced accordingly. The designation to the veterans trust fund and volunteer fire fighter preparedness fund is irrevocable and cannot be made on an amended return.

b. A designation to the veterans trust fund and volunteer fire fighter preparedness fund checkoff may be allowed only after the taxpayer's obligations to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa fish and game protection fund checkoff, the state fair foundation fund checkoff, and the child abuse prevention program fund checkoff are satisfied.

c. On or before January 31 of the year following each year in which returns with the veterans trust fund and volunteer fire fighter preparedness fund checkoff are due, the department of revenue shall transfer one-half of the total amount designated to the veterans trust fund and the remaining one-half to the volunteer fire fighter preparedness fund.

43.4(5) *Limitation of checkoffs on the individual income tax return.*

a. Only four checkoffs may be included on the individual income tax return for a given tax year. For tax years beginning on or after January 1, 2017, if the same four checkoffs have been listed on the individual income tax return for two consecutive years, the two checkoffs that, in the aggregate, have received the lowest contribution amounts are repealed effective December 31 after the end of the second tax year and will be removed from the individual income tax return. To determine contribution amounts, the department will consider the contributions made to each fund for the first tax year and contributions made to each fund up to and including March 15 after the end of the second tax year. The department will notify the Iowa Code editor of the checkoffs that are repealed under this paragraph by July 1 after the end of the second tax year.

EXAMPLE: Checkoffs A, B, C, and D are included on the individual income tax return for tax years 2021 and 2022. Taxpayers will begin filing their 2021 tax returns in January 2022. To determine which two checkoffs received the lowest contribution amounts, the department will review the contributions received in the period January 1, 2022, through March 15, 2023 (March 15 after the end of the second tax year).

b. If the general assembly, in the same legislative session, enacts more checkoffs than may be included on the individual income tax form, only the earliest enacted checkoffs will be listed on the form. The department will determine which enacted checkoffs will be included on the form pursuant to Iowa Code section 3.7. If it is indeterminable which checkoffs were first enacted under Iowa Code section 3.7, the director of revenue shall determine the checkoffs that will be included on the individual

income tax form. The department will notify the Iowa Code editor of any checkoffs that must be repealed under this paragraph by September 1 of any applicable year.

This rule is intended to implement Iowa Code sections 422.12D, 422.12E, 422.12H, 422.12K and 422.12L; 2016 Iowa Acts, House File 2459; 2017 Iowa Acts, House File 242; 2019 Iowa Acts, House File 779; and 2021 Iowa Acts, Senate File 619.

[ARC 9103B, IAB 9/22/10, effective 10/27/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 0337C, IAB 9/19/12, effective 10/24/12; ARC 1665C, IAB 10/15/14, effective 11/19/14; ARC 3527C, IAB 12/20/17, effective 1/24/18; ARC 6148C, IAB 1/12/22, effective 2/16/22]

701—43.5(422) Abatement of tax. For notices of assessment issued on or after January 1, 1995, if the statutory period for appeal has expired, the director may abate any portion of unpaid tax, penalties or interest which the director determines to be erroneous, illegal, or excessive. See rule 701—7.31(421) for procedures on requesting abatement of tax.

This rule is intended to implement Iowa Code section 421.60.

701—43.6(422) 1978 Income tax rebate. Rescinded IAB 11/24/04, effective 12/29/04.

701—43.7(422) Special refund for taxpayers with net long-term capital gains in the tax year. Rescinded IAB 11/24/04, effective 12/29/04.

701—43.8(422) Livestock production credit refunds for corporate taxpayers and individual taxpayers. For tax years beginning on or after January 1, 1996, corporate and individual taxpayers who own certain livestock, who have livestock production operations in Iowa in the tax year, and who meet certain qualifications are eligible for a livestock production credit refund. The amount of a livestock production credit refund is determined by adding together for each head of livestock in the taxpayer's operation the product of 10 cents for each corn equivalent deemed to have been consumed by that animal in the taxpayer's operation in the tax year. For tax years beginning on or after January 1, 1998, only qualified taxpayers that have cow-calf livestock operations described in paragraph "o" of subrule 43.8(2) will be eligible for the livestock production refunds, notwithstanding the other types of livestock operations mentioned in this rule. Note that the livestock production credit refund is also available to taxpayers who meet the qualifications described in subrule 43.8(1) and operate certain types of poultry operations in this state and own the poultry in the operations. The amounts of the livestock production credit refunds for these taxpayers are determined on the basis of 10 cents for each corn equivalent deemed to have been consumed by the chickens or the turkeys in the taxpayers' poultry operations in the tax year. However, the amount of livestock production credit refund may not exceed \$3,000 per livestock or poultry operation for a tax year. In addition, the amount of livestock production credit refund per taxpayer for a tax year may not exceed \$3,000. Therefore, if a particular taxpayer is involved in a cow-calf beef operation, a sheep-ewe flock operation, and a farrow-to-finish hog operation, the maximum livestock production credit refund for this taxpayer may not exceed \$3,000.

General references in this rule to livestock, livestock production, and livestock production operations also apply to poultry, poultry production, and poultry production operations.

In the case of married taxpayers, each of the spouses may be eligible for a livestock production refund of up to \$3,000 if each of the spouses was involved in a livestock production operation independently from the other spouse and independently from other taxpayers in the tax year. If both spouses are involved in the same livestock operation, the maximum refund from that operation is \$3,000 which may be allocated between the individuals in the ratio of each spouse's ownership interest in the operation. If a livestock production operation is conducted by a partnership, limited liability company, subchapter S corporation, estate, or a trust, the livestock production credit refund from the entity is to be allocated to the owners of the entity in the same ratio as earnings are allocated to the owners. In situations where a livestock production operation is conducted partly within and partly without Iowa, only the livestock production activity in Iowa during the tax year will be considered for purposes of the livestock credit refund. The livestock production refund amounts for these taxpayers is to be allocated on the basis of sales of Iowa livestock which qualify taxpayers for the livestock production refund to total sales of

livestock which qualify taxpayers for the refund. However, the refunds from any operations may not exceed \$3,000. The following subrules outline how the livestock production credit refund program is to be administered by the department of revenue:

43.8(1) *Qualifications for the livestock production credit refunds.* For tax years beginning on or after January 1, 1997, individual and corporate taxpayers will be eligible for the livestock production credit refund if the taxpayer's federal taxable income is \$99,600 or less. In the case of married taxpayers, their combined federal taxable income must be considered to determine if they are eligible for the credit.

For each tax year beginning after 1997, the federal taxable income specified previously in this subrule shall be multiplied by the cumulative index factor for that tax year to calculate the federal taxable income that will be used to determine whether a taxpayer is eligible for the livestock production refund that is authorized for that tax year. "Cumulative index factor" means the product of the annual index factor for the 1997 calendar year and all annual index factors for subsequent calendar years. The annual index factor equals the annual inflation factor for that calendar year as computed in Iowa Code section 422.4 for purposes of indexation of the tax rates for individual income tax.

43.8(2) *Definitions related to the livestock production credit refunds.* The following definitions explain livestock and poultry for purposes of this rule. The definitions also describe the various types of livestock operations of taxpayers which may qualify the taxpayers for the livestock production credit refunds and specify how the refunds are to be computed for the various types of livestock operations:

a. For the purposes of this rule, the term "livestock" means domestic bovine animals which will be referred to as bulls, heifers, cattle, calves, or cows in this rule, domestic ovine animals which will be referred to as sheep, lambs, rams, or ewes, or domestic swine which will be referred to as hogs or pigs. That is, for purposes of this rule, "livestock" includes only those farm animals which may qualify their owners for the livestock production credit refund. "Livestock" does not include horses, goats, donkeys, mules, oxen, furbearing mammals, other mammals, or other classes of animals, although some of these animals or species may be considered to be "livestock" in other contexts or situations.

b. For purposes of this rule the term "poultry" means only domestic chickens and domestic turkeys as only these types of birds may qualify their owners for the livestock production credit refunds. "Poultry" does not include ducks, geese, wild turkeys, emus, ostriches, or other fowl or birds, although some of these species may be considered to be poultry in other contexts or situations.

c. For purposes of this rule, the term "farrow-to-finish" hog operations comprises those hog production operations where the majority of the hogs sold from the operation are from animals farrowed and raised in the operation which are sold at a prime market weight of 200 pounds or more.

In order to compute the livestock production credit refund amounts for the "farrow-to-finish" hog production operations, the corn equivalent factor of 13 per animal sold, or \$1.30, is multiplied by the number of hogs sold at prime market weight in the tax year which were farrowed and raised in the operation. No corn equivalent credits are given for hogs sold at the prime market weight which have been in the operation less than three months on the date of sale. In the "farrow-to-finish" operations, hogs sold at a weight that is less than the prime market weight also are considered for purposes of computing the livestock production credit refund for the operation, but only at the corn equivalent factor of 2.6 or \$.26 per pig sold.

In "farrow-to-finish" hog operations, if any pigs are purchased at the feeder pig weight of less than 60 pounds and are sold at prime market weight (200 pounds or more), see paragraph "e" in this subrule for the corn equivalent factor which applies to these transactions.

d. For purposes of this rule, the term "farrow-to-feeder-pig" hog operations includes those operations where essentially all the pigs farrowed in the operation are sold at an average weight of less than 60 pounds per pig, or at "feeder pig" weight.

The potential livestock production credit refunds for these operations are computed by multiplying the corn equivalent factor of 2.6 or \$.26 times the number of pigs sold at the "feeder pig" weight from these operations in the tax year. However, the corn equivalent factor of 13 or \$1.30 per animal sold can be used for hogs sold at the prime market weight (200 pounds or more) from these operations for those animals where there is documentation that the hogs were born and raised in the operation or that the hogs were in the operation for a minimum of three months at the time the hogs were sold.

e. The term “finishing feeder pigs” hog operations comprises those operations where the majority of the hogs in this operation are purchased when these animals weighed less than 60 pounds or at the “feeder pig” weight and the animals are sold at the time the animals are at the prime market weight of 200 pounds or more per hog. The potential livestock production credit refunds for these operations are computed by multiplying the corn equivalent factor of 10.4 or \$1.04 times the number of animals sold in the year at the prime market weight. However, only those animals that were in the operation for a minimum of three months at the time the hogs were sold at prime market weight can be considered for purposes of the livestock production credit refund. Corn equivalent factor credits of 2.6 or \$.26 are given for animals which are purchased at the “feeder pig” weight of less than 60 pounds and were in the operation for a minimum of three months when the hogs were sold at a weight which is less than the prime market weight of 200 pounds or more per hog.

f. For purposes of this rule, the term “layer poultry operations” includes operations where the eggs produced by the chickens in the operation are sold for human consumption. The livestock production credit refunds for these operations are computed on the basis of the average number of chickens in the operation in the tax year multiplied by the corn equivalent factor of .88 or \$.088. The average number of chickens in the operation in the tax year is the aggregate of the number of chickens in the operation on the first day in the tax year that the operation was in production and the number of chickens in the operation on the last day of the tax year in which the operation was in production divided by 2.

However, in a situation where the operation was started or was shut down sometime during the tax year, the livestock refund amount otherwise computed must be reduced by 8.33 percent for each month in the tax year in which the operation was not in production. Thus, in the case where the computed livestock refund amount was \$2,000 and the operation was in production for only nine months of the tax year, the adjusted refund amount would be \$1,500 ($\$2,000 \times .0833 \times (3) = \500). ($\$2,000 - 500 = \$1,500$)

g. For purposes of this rule, the term “turkey production operations” means operations involved in raising domestic turkeys for sale for human consumption and where the turkeys are sold at a prime market weight. The prime market weight for male or tom turkeys is between 30 and 35 pounds. The prime market weight for hen turkeys is between 22 and 25 pounds. The livestock production credit refund for this type of operation is computed by multiplying the number of turkeys sold in the tax year at the prime market weight times the corn equivalent factor of 1.5 or \$.15. However, only those turkeys that were in the operation for a minimum of three months on the date the turkeys were sold may be considered for purposes of computing the livestock production credit for the turkey operation.

h. For purposes of this rule, the term “broiler poultry operations” means poultry production operations whereby the chickens raised in the operations are sold for human consumption at a prime market weight or broiler weight between 3 pounds and 6 pounds depending on the breed or breeds of chickens. The livestock production credit refund for this type of operation is computed by multiplying the number of chickens sold in the tax year at broiler weight by the corn equivalent factor of .15 or \$.015. However, only chickens that are in the broiler operation for a minimum of six weeks before the chickens are sold at broiler weight may be considered for purposes of computing the livestock production credit for these operations.

i. Rescinded IAB 5/6/09, effective 6/10/09.

j. For purposes of this rule, “stocker cattle operations” are beef cattle operations where essentially all cattle in the operations are purchased as calves, raised in the operation at least two months, and the cattle are sold in a range from 700 to 900 pounds per head which is deemed to be the “stocker weight.” Cattle in the operation that were sold at a weight of less than 700 pounds may not be counted for purposes of computing the livestock production credit refund for the operation. The livestock production credit refunds for these operations is computed on the basis of the number of cattle sold in the year at the stocker weight times the corn equivalent factor of 41.5 or \$4.15 per head. Cattle sold in the tax year must be reported on a first-in, first-out basis unless records of the taxpayer can support a different order of sale of the animals. If this operation includes calves that were raised on the farm where they were born, these calves qualify for the corn equivalent factor of 41.5 or \$4.15 per head if the calves were unsold at the

end of the tax year and the calves were in the operation for a minimum of two months after the calves were weaned.

k. For purposes of this rule, “beef feedlot operations” include those beef cattle operations whereby the cattle are purchased as calves approximately 60 days from the time the calves were weaned or at a “stocker weight” and are sold at a feedlot weight of 900 pounds or more after a three-month period when the animals were on a high concentrate diet. Note that any animals which are purchased for the operation and are maintained in the herd for less than four months at the time of sale do not qualify the taxpayer for the livestock production credit refund of \$7.50 per head of cattle sold. The livestock production credit refund for these operations is computed by multiplying the number of cattle sold in the year at the feedlot weight times the corn equivalent amount of 75 or \$7.50 per animal. However, if any cattle in the operation are sold at the “stocker” weight of at least 700 pounds but less than 900 pounds, these animals may be counted for the livestock production credit refund at a corn equivalent amount of 41.5 or \$4.15 per head of cattle sold to the extent the cattle were in the operation for two months or more at the time of sale. If any cattle in the operation in the tax year were sold at a weight of less than 700 pounds, the sales of these cattle may not be counted for the livestock production credit refund. Cattle sold in the tax year must be reported on a first-in, first-out basis unless records of the taxpayer can support a different order of sale of the cattle.

l. For purposes of this rule, “dairy cattle operations” includes those cattle operations where the primary purpose of the operations is the production of milk and milk products for human consumption. The livestock production credit refund is computed by multiplying the aggregate of the number of milking cows in lactation on December 31 of the tax year and the number of cows bred to calve within 60 days of December 31 and the number of breeding bulls in inventory on December 31 times the corn equivalent number of 350 or \$35 per cow. However, cattle that were purchased in the period between July 1 and December 31 of the calendar year may not be considered for purposes of computation of the livestock production credit for the dairy operation. In the case of a “dairy cattle operation” which started or ceased production in the tax year, the livestock production credit refund otherwise computed must be reduced by 8.33 percent for each month in the tax year in which the livestock operation was not in production. Heifers in the operation are not counted for purposes of the credit until the animals are bred to calve.

m. For purposes of this rule, “ewe flock sheep operations” are sheep operations whereby the majority of the sheep and lambs sold from the operation were born and raised in the operation. The livestock production credit refunds for these operations are computed by multiplying the number of ewes and rams in inventory on December 31 of the tax year times the corn equivalent factor of 20.5 or \$2.05 per ewe or ram. Any ewes or rams purchased within three months before December 31 of the tax year may not be considered for purposes of computing the livestock production credit for the operation. In addition, lambs sold in the tax year from the operation may be counted for the production credit refund at 4.1 corn equivalents or \$.41 for each lamb sold to the extent the lambs were in the operation for a minimum of three months prior to the date of sale.

n. For purposes of this rule, “sheep feedlot operations” are sheep production operations where lambs born and raised in the operation are sold after the lambs have been in the operation for a minimum of three months prior to the date of sale. The livestock production credit refunds are computed by multiplying the number of lambs sold in the tax year times the corn equivalent factor of 4.1 or \$.41.

o. For the purposes of this rule and for tax years beginning on or after January 1, 1998, “cow-calf operations” means those livestock cattle production operations that include bred cows, bred heifers, and breeding bulls. The livestock production credit refunds for cow-calf operations are determined only on the number of bred cows, bred heifers, and breeding bulls in inventory of the operations on December 31 of the tax year times the corn equivalent factor of 111.5 or \$11.15. However, only those bred cows, bred heifers, and breeding bulls in inventory on December 31 which were also in inventory on July 1 of the same calendar year may be counted for purposes of computing the livestock production refunds.

43.8(3) Filing claims for the livestock production credit refunds. Taxpayers who are eligible for the livestock production credit refunds must file refund requests on claim forms provided by the department that must be attached to their income tax returns for the tax year in which the livestock production

occurred. The claim forms must be filed with the income tax returns within ten months after the end of the tax year of the return in order for the refund claims to be timely. Thus, in the case of a taxpayer filing a livestock production refund claim form with the 1996 Iowa income tax return for calendar year 1996, the claim forms must be filed by October 31, 1997, in order for the claims to be timely. Taxpayers may not request extensions for filing claims for the livestock production refunds.

The department will determine by February 28 of the year after the year in which the livestock production credit refund claims are to be filed if the total amount requested on the refund claims exceeds the amount appropriated for the refunds for that tax year. If a taxpayer's refund claim is not payable on February 28 because the taxpayer is a fiscal year filer, that taxpayer's claim will be considered to be a claim for the following tax year. However, in order for this claim to be considered to be a valid refund claim for the following tax year, the refund claim must have been filed within ten months after the end of the fiscal year of the taxpayer. However, in the case of livestock production credit refund claims for fiscal year periods beginning in 1996 which are not received soon enough to be considered for the refunds to be issued in February 1998, only claims for cow-calf livestock production operations will be considered with the livestock production refund claims for the 1997 tax year.

If a taxpayer files a fraudulent claim for a livestock production credit refund for a tax year, the taxpayer will be considered to have forfeited any right or interest to a livestock production refund for any subsequent tax year after the year of the fraudulent claim.

43.8(4) *Records needed to establish livestock production credit refunds.* The burden is on the taxpayer to maintain those records and documents which support the livestock production credit refund that was claimed by the taxpayer. Necessary records and documents must include, but are not limited to, the ones mentioned in this subrule. Some of the necessary records are inventory schedules showing the number of livestock or poultry in the livestock operation on certain dates in the tax year. Sales of livestock or poultry in the tax year must be supported by scale tickets, packing house invoices, sales receipts, sales barn invoices, and similar documents. Dairy herd improvement association records and similar inventory forms can be used to establish the number of animals or the number of birds on hand in the operation on a certain day in the tax year. These documents are not to be submitted with the taxpayer's income tax return with the livestock production credit refund claim form. Instead, the documents are to be retained with other tax records for at least three years in case of possible audit by the department of revenue.

43.8(5) *Repeal of the livestock production credit refund.* The livestock production credit was repealed on November 1, 2008, for refund claims filed on or after that date. Any livestock production credit refunds requested on Iowa tax returns filed on or after November 1, 2008, will not be issued.

This rule is intended to implement Iowa Code sections 422.120, 422.121, and 422.122 as amended by 2009 Iowa Acts, Senate File 478, section 152.

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Chapter rescinded by 2021 Iowa Acts, Senate File 367, section 10, effective January 1, 2022.

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Rules transferred from agency number [820] to [761] to conform with the reorganization numbering scheme in general IAC Supp. 6/3/87.

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CHAPTER 135

WARNING LIGHTS ON VEHICLES OR EQUIPMENT NOT OWNED AND OPERATED BY THE
DEPARTMENT WHEN USED IN ROAD WORK ZONES**761—135.1(321) Warning lights on vehicles or equipment in road work zones.**

135.1(1) Purpose. The purpose of this rule is to establish the eligibility of vehicles or equipment that are not owned or operated by the department to use flashing white lights in accordance with Iowa Code section 321.423(7) “a.”

135.1(2) Eligibility. A vehicle or other equipment that is not owned or operated by the department may use a flashing white light while the vehicle or other equipment is being used in road work zones on state or local highways.

135.1(3) Information. Information regarding this rule is available from the Construction and Materials Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by telephone at (515)239-1352.

[ARC 6132C, IAB 1/12/22, effective 2/16/22]

This rule is intended to implement Iowa Code section 321.423(7) “a.”

[Filed ARC 6132C (Notice ARC 6014C, IAB 11/3/21), IAB 1/12/22, effective 2/16/22]

CHAPTER 90
ADMINISTRATION OF THE BOILER AND PRESSURE VESSEL PROGRAM

[Prior to 1/14/98, see 347—Chs 41 to 49]

[Prior to 8/16/06, see 875—Chs 200, 202]

875—90.1(89) Purpose and scope. These rules institute administrative and operational procedures for implementation of Iowa Code chapter 89. An object shall not be considered “under pressure” and shall not be within the scope of Iowa Code chapter 89 when there is clear evidence that the manufacturer did not intend it to be operated at more than 3 psi and the object is operating at 3 psi or less. Jurisdiction is limited to objects, appurtenances, controls, safety devices, and equipment rooms as required by Iowa rules.

[ARC 0416C, IAB 10/31/12, effective 12/5/12; ARC 3903C, IAB 7/18/18, effective 9/1/18]

875—90.2(89,252J,272D) Definitions. To the extent they do not conflict with the definitions contained in Iowa Code chapter 89, the definitions in this rule shall be applicable to the rules contained in 875—Chapters 90 to 96.

“*Alteration*” means a change in the object described on the original manufacturer’s data report that affects the pressure-retaining capability of the pressure-retaining object. A nonphysical change such as an increase in the maximum allowable working pressure (internal or external), an increase in design temperature, or a reduction in minimum temperature of a pressure-retaining item shall be considered an alteration.

“*ANSI/ASME CSD-1*” means Control and Safety Devices for Automatically Fired Boilers.

“*Appurtenance*” means any item or equipment that is attached to the object and is part of the boiler external piping.

“*ASME*” means the American Society of Mechanical Engineers.

“*Boiler*” means a vessel in which water or other liquids are heated, steam or other vapors are generated, steam or other vapors are superheated, or any combination thereof, under pressure or vacuum by the direct application of heat. “Boiler” includes all temporary boilers.

“*Boiler external piping*” means all boiler piping and components as set forth in the scope of the edition of ASME B31.1 currently adopted by reference in Chapter 91.

“*Certificate of noncompliance*” means:

1. A certificate of noncompliance issued by the child support recovery unit, department of human services, pursuant to Iowa Code chapter 252J; or
2. A certificate of noncompliance issued by the centralized collection unit of the department of revenue pursuant to Iowa Code chapter 272D.

“*CFR*” means Code of Federal Regulations.

“*Construction or installation code*” means the applicable standard for construction or installation in effect at the time of installation.

“*CSD-1 report*” means Manufacturer’s/Installing Contractor’s Report for ASME CSD-1.

“*Division*” means the division of labor services, unless another meaning is clear from the context.

“*Electric boiler*” means a power boiler, heating boiler, high or low temperature water boiler in which the source of heat is electricity.

“*Exit*” means a doorway, hallway, or similar passage that will allow free, normally upright unencumbered egress from an area.

“*External inspection*” means a complete examination made of the external surfaces and safety devices while the object is in operation, unless the object is required to be shut down pursuant to 875—subrule 89.3(4).

“*High temperature water boiler*” means a water boiler intended for operations at pressures in excess of 160 psig or temperatures in excess of 250 degrees F.

“*Hot water heating boiler*” means a boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at a pressure not exceeding 160 psig or a temperature of 250 degrees F at the boiler outlet.

“*Hot water supply boiler*” means a boiler that:

1. Operates at a pressure not exceeding 160 psig;
2. Furnishes hot water to be used externally to itself; and, either:
 - Bears a National Board “H” stamp and has a temperature less than or equal to 250°F at or near the boiler outlet, or,
 - Bears a National Board “HLW” stamp and has a temperature less than or equal to 210°F at or near the boiler outlet.

“*Installation*” means the process by which an object is connected to a system for operation. This applies to all objects whether they are new, used, or being brought back to service after being removed.

“*Institution of health and custodial care*” means any of the following:

1. A health care facility as defined by Iowa Code section 135C.1;
2. An assisted living program as defined by Iowa Code section 231C.2;
3. A boarding home as defined by Iowa Code section 135O.1;
4. A hospice that offers inpatient services in an institutional setting;
5. Any institution or facility in which persons are housed to receive medical, health, or other care or treatment; or
6. Any other institution or facility in which persons are housed to receive assistance with meeting personal needs or activities of daily living.

A facility or office that provides care and services only on an outpatient basis shall not be an “institution of health and custodial care.”

“*Internal inspection*” means as complete an examination as can be reasonably made of the internal surfaces of an object while it is shut down and access for examination is attained through the removal of any manhole plates, handhole plates, blind flanges, piping spools or fittings attached to the object. A determination that an examination cannot be reasonably made shall not be based on a failure of the owner or user to provide clearance pursuant to rule 875—91.10(89) or on failure of the owner or user to provide for the inspector’s safety and health as described in 875—Chapters 90 and 91.

“*ISO*” means International Standards Organization.

“*Labor commissioner*” means the labor commissioner or the commissioner’s designee.

“*Lap seam crack*” means a crack found in lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

“*Miniature boiler*” means a boiler that does not exceed a 16-inch inside shell diameter, 20 square feet of heating surface (not applicable to electric boilers), 5 cubic feet of gross volume (exclusive of casing and insulation), and 100 psig maximum allowable working pressure.

“*National Board*” means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of jurisdictions who are charged with the enforcement of the provisions of boiler codes. The National Board’s website is nationalboard.org.

“*National Board Inspection Code*” or “*NBIC*” means the Manual for Boiler and Pressure Vessel Inspectors (ANSI/NB 23) published by the National Board. Copies of the code may be obtained from the National Board.

“*Object*” means a boiler or pressure vessel.

“*OEM*” means original equipment manufacturer.

“*Owner or user*” means any person, firm, or corporation legally responsible for the installation, operation, and maintenance of any object within the jurisdiction.

“*Power boiler*” means a boiler in which steam or other vapor is generated at a pressure of more than 15 pounds per square inch or a water boiler intended for operation at pressures in excess of 160 pounds per square inch or temperatures in excess of 250 degrees Fahrenheit.

“*Process steam generator*” means a vessel or system of vessels comprised of one or more drums and one or more heat exchange surfaces as used in waste heat or heat recovery type steam boilers.

“*Psig*” means pounds per square inch gage.

“*Relief valve*” means an automatic pressure-relieving device actuated by a static pressure upstream of the valve that opens further with the increase in pressure over the opening pressure and that is used primarily for liquid service.

“Repair” means work necessary to return a boiler or pressure vessel to a safe operating condition.

“Rupture disk device” means a nonreclosing pressure-relief device actuated by inlet static pressure and designed to function by the bursting of a pressure-containing disk.

“Safe point of discharge” means the same as in the National Board Inspection Code: a location that will not cause property damage, cause equipment damage, or create a health or safety threat to personnel in the event of discharge.

“Safety appliance” shall include, but not be limited to:

1. Rupture disk device;
2. Safety relief valve;
3. Safety valve;
4. Temperature limit control;
5. Pressure limit control;
6. Gas switch;
7. Air switch; or
8. Any major gas train control.

“Safety relief valve” means an automatic, pressure-actuated relieving device suitable for use as a safety or relief valve, depending on application.

“Safety valve” means an automatic, pressure-relieving device actuated by the static pressure upstream of the valve and characterized by full opening pop action. The safety valve is used for gas or vapor service.

“Special inspection” means an inspection which is not required by Iowa Code chapter 89.

“Temperature and pressure relief valve” means a valve set to relieve at a designated temperature and pressure.

“Temporary object” means a boiler, unfired steam pressure vessel, or combination thereof that is not a permanent fixture or part of normal operation of the facility.

“Unfired steam boiler” means a vessel or system of vessels intended for operation at a pressure in excess of 15 psig for the purpose of producing and controlling an output of thermal energy.

“Unfired steam pressure vessel” means a vessel or container used for the containment of steam pressure either internal or external in which the pressure is obtained from an external source. “Unfired steam pressure vessel” may include items such as expansion tanks, flash tanks, and condensate return tanks.

“U.S. customary units” means feet, pounds, inches and degrees Fahrenheit.

“Water heater supply boiler” means a closed vessel in which water is heated by combustion of fuels, electricity or any other source and withdrawn for use external to the system at pressure not exceeding 160 psig and shall include all controls and devices necessary to prevent water temperatures from exceeding 210 degrees F.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 9790B, IAB 10/5/11, effective 11/9/11; ARC 0319C, IAB 9/5/12, effective 10/10/12; ARC 0739C, IAB 5/15/13, effective 6/19/13; ARC 1964C, IAB 4/15/15, effective 5/20/15; ARC 3903C, IAB 7/18/18, effective 9/1/18; ARC 5159C, IAB 8/26/20, effective 9/30/20; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—90.3(89) Iowa identification numbers. All objects shall be identified by an Iowa identification number. State inspectors and special inspectors shall assign identification numbers as directed by the division to all jurisdictional objects that lack numbers. Identification numbers shall be attached in plain view to the object using one of the following methods:

1. A yellow sticker 2 inches by 3 inches affixed to the object and bearing the number.
2. A metal tag 1 inch by 2½ inches affixed to the object and bearing the number.
3. Numbers at least 5/16 of an inch high and stamped directly on the object.

875—90.4(89) National Board registration. Rescinded IAB 11/18/09, effective 1/1/10.

875—90.5(89) Preinspection owner or user preparation.

90.5(1) Preparation of objects. Each owner or user shall ensure that each object covered by Iowa Code chapter 89 is prepared for inspection pursuant to this rule.

90.5(2) *Confined space and lockout, tagout procedures.*

a. It is the responsibility of the owner or user to assess all objects for compliance with the confined space and lockout, tagout standards pursuant to 29 CFR 1910.146 and 1910.147. If an object is a non-permit-required confined space or a permit-required confined space as defined by 29 CFR 1910.146, the owner or user must comply with all applicable requirements of 29 CFR 1910.146 and 1910.147 in preparing the object for inspection.

b. It is the duty of the owner or user to inform any inspector of the owner's or user's confined space entry and lockout, tagout procedures and supply to the inspector all information necessary to assess whether the confined space is safe for entry. It is the right of an inspector to verify any of the information supplied.

c. If the requirements of 29 CFR 1910.146 and 1910.147 are not met, the inspector shall not enter the space. If there is a breach of the procedure or the procedure is inconsistent with 29 CFR 1910.146 or 1910.147, the inspection process shall cease until the space is reassessed and determined to be safe or the procedure is rewritten in a manner consistent with the standards. No inspector shall violate the owner's or user's confined space or lockout, tagout procedures in making an inspection.

d. The owner or user shall have all objects locked and tagged, as applicable, prior to the inspector's entry for inspection or testing.

e. For entry into a permit-required confined space, the owner or user shall provide the necessary equipment such as air monitors and a qualified attendant who has received all the information relevant to the entry.

90.5(3) *Hydrostatic tests.* The owner or user shall prepare for and apply a hydrostatic test, whenever necessary, on the date specified by the inspector, which date shall be not less than seven days after the date of notification.

90.5(4) *Boilers.* A boiler shall be prepared for internal inspection in the following manner:

a. Fluid shall be drawn off and the boiler washed thoroughly.

b. Manhole and handhole plates, washout plugs and inspection plugs in water columns shall be removed as required by the inspector. The furnace and combustion chambers shall be thoroughly cooled and cleaned.

c. All grates of internally fired boilers shall be removed.

d. Brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, header, furnace, supports or other parts.

e. Low-water fuel cutoff controls shall be opened or removed to allow for visual inspection.

90.5(5) *Pressure vessels.* The extent of inspection preparation for a pressure vessel will vary. If the inspection is to be external only, advance preparation is not required other than to afford reasonable access to the vessel. For combined internal and external inspections of small vessels of simple construction handling air, steam, nontoxic or nonexplosive gases or vapors, minor preparation is required, including affording reasonable means of access and removing manhole plates and inspection openings. In other cases, preparation shall include removing the internal fittings and appurtenances to permit satisfactory inspection of the interior of the vessel if required by the inspector.

90.5(6) *Removal of covering or brickwork to permit inspection.* If the object is jacketed so that the longitudinal seams of shells, drums, or domes cannot be seen, sufficient jacketing, setting wall, or other form of casing or housing shall be removed to permit reasonable inspection of the seams and so that the size of rivets, pitch of the rivets, and other data necessary to determine the safety of the object may be obtained, providing the information cannot be determined by other means. Brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, header, furnace, supports or other parts.

90.5(7) *Improper preparation for inspection.* If an object has not been properly prepared for an internal inspection, or if the owner or user fails to comply with the requirements for hydrostatic tests as set forth in this chapter, the inspector may decline to make the inspection or test, and the inspection certificate shall be withheld until the owner or user complies with the requirements.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—90.6(89) Inspections.

90.6(1) General. All boilers and unfired steam pressure vessels covered by Iowa Code chapter 89 shall be inspected according to the requirements of the National Board Inspection Code (2021), which is hereby adopted by reference. A division inspector or special inspector must perform the inspections.

90.6(2) Schedule.

a. All required inspections must be performed according to the schedule set forth in Iowa Code section 89.3, unless an exception is set forth in this rule.

b. Except for inspections of unfired steam pressure vessels operating in excess of 15 pounds per square inch and low pressure steam boilers, each certificate inspection must be performed within a 60-day period prior to the expiration date of the operating certificate. Modification of this 60-day period will be permitted only upon written application showing just cause for waiver of the 60-day period.

c. Special inspections may be conducted when deemed necessary by the division and the object's owner or user.

90.6(3) Inspections conducted by special inspectors. Special inspectors shall provide copies of the completed report to the insured and to the division within 14 days of completing the inspection. The reports shall list all noteworthy conditions that are within the scope of Iowa Code chapter 89, all recommendations, and all requirements. If the special inspector has not provided the results of the inspection within the time frame identified, the division may conduct the inspection.

90.6(4) Type of inspection. The inspection shall be an internal inspection when required; otherwise, it shall be as complete an external inspection as possible. Conditions including, but not limited to, the following may also be the basis for an internal inspection:

- a.* Visible metal or insulation discoloration due to excessive heat.
- b.* Visible distortion of any part of the pressure vessel.
- c.* Visible leakage from any pressure-containing boundary.
- d.* Any operating records or verbal reports of a vessel being subjected to pressure above the nameplate rating or to a temperature above or below the nameplate design temperature.
- e.* A suspected or known history of internal corrosion or erosion.
- f.* Evidence or knowledge of a vessel having been subjected to external heat from a fire.
- g.* A welded repair not documented as required.
- h.* Evidence of an accident, incident or malfunction that could affect or may have resulted from a problem with the object's integrity.

90.6(5) Internal inspections for unfired steam pressure vessels operating at more than 15 pounds per square inch. The commissioner may require an internal inspection of an unfired steam pressure vessel operating in excess of 15 psi when an inspector observes any deviation from these rules, Iowa Code chapter 89, the construction code, the installation code, or the National Board Inspection Code.

90.6(6) Inspection of inaccessible parts. When, in the opinion of the inspector, as a result of conditions disclosed at the time of inspection, it is advisable to remove the interior or exterior lining, covering, or brickwork to expose certain parts of the vessel not normally visible, the owner or user shall remove such material to permit proper inspection and thickness measurement of any part of the vessel. Nondestructive examination is acceptable.

90.6(7) Imminent danger.

a. If the labor commissioner determines that continued operation of an object constitutes an imminent danger that could seriously injure or cause death to any person, notice to immediately cease operation of that object shall be made to the owner or user through contact information available in the division's records or by posting a notice at the location of the object.

b. Upon such notice, the owner or user shall immediately take the necessary steps to cease operation of the object. All forms of energy to and from the object must be isolated and physically locked in the closed position.

c. A division inspector will verify that the object is no longer in operation and all forms of energy to and from the object have been isolated and are locked in the closed position.

d. The object shall not be used until all necessary repairs have been completed, the object has passed inspection, all repair documentation is complete, and the division reviews and approves the documentation.

e. Operation of an object in violation of this subrule may result in further legal action pursuant to Iowa Code sections 89.11 and 89.13.

90.6(8) Internal inspections on a four-year cycle based on process safety management compliance. The owner shall demonstrate compliance with the requirements set forth in Iowa Code section 89.3(5)“a”(4)(b) by annually submitting to the labor commissioner a notarized affidavit. The affidavit shall be in a format approved by the labor commissioner and shall be signed by the owner or an officer of the company.

90.6(9) Internal inspection on a four-year cycle for utility objects. An object that meets the criteria of this subrule shall be inspected internally at least once every four years and externally every year. If at any time the object or the owner no longer meets the criteria of this subrule, internal inspections shall be performed on a two-year cycle.

a. The object is owned and operated by an electric public utility subject to rate regulation under Iowa Code chapter 476.

b. The object and the owner meet all the requirements for a two-year internal inspection interval as set forth in Iowa Code section 89.3, subsection 4.

c. If the object is shut down for a period sufficient to allow safe entry, and more than two years have passed since the last internal inspection, the owner shall notify the labor commissioner of the outage and shall schedule an internal inspection.

d. If the labor commissioner determines that an earlier inspection is necessary, the owner shall prepare the object for inspection pursuant to rule 875—90.5(89).

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 0319C, IAB 9/5/12, effective 10/10/12; ARC 1189C, IAB 11/27/13, effective 1/1/14; ARC 1634C, IAB 10/1/14, effective 11/5/14; ARC 1964C, IAB 4/15/15, effective 5/20/15; ARC 2403C, IAB 2/17/16, effective 4/1/16; ARC 4977C, IAB 3/11/20, effective 4/15/20; ARC 5977C, IAB 10/20/21, effective 11/24/21; ARC 6135C, IAB 1/12/22, effective 2/16/22]

875—90.7(89) Fees.

90.7(1) Special inspector commission fee. A \$55 fee shall be paid annually to the commissioner to obtain a special inspector commission pursuant to Iowa Code section 89.7.

90.7(2) Certificate fee. A \$40 fee shall be paid for each one-year certificate, an \$80 fee shall be paid for each two-year certificate, and a \$160 fee shall be paid for each four-year certificate.

90.7(3) Fees for inspection. An inspection fee for each object inspected by a division inspector shall be paid by the appropriate party as follows:

a. A \$55 fee for each water heater supply boiler.

b. A \$95 fee for each boiler, other than a water heater supply boiler, having a working pressure up to and including 450 pounds per square inch or generating between 20,000 and 100,000 pounds of steam per hour.

c. A \$215 fee for each boiler, other than a water heater supply boiler, having a working pressure in excess of 450 pounds per square inch and generating in excess of 100,000 pounds of steam per hour.

d. A \$55 fee for each pressure vessel, such as steam stills, tanks, jacket kettles, sterilizers and all other reservoirs having a working pressure of 15 pounds or more per square inch.

e. An additional fee will be charged if, upon the request of an owner or user, the labor commissioner agrees to any non-routine schedule for an inspection outside of normal business hours, a special inspection, or a site visit. The additional fee will be calculated at a rate of \$200 per hour, including travel time, with a minimum charge of \$400.

f. If a boiler or pressure vessel has to be reinspected, there shall be another inspection fee as specified above.

90.7(4) Fees for attempted inspections. A \$35 fee shall be charged for each attempt by a division inspector to conduct an inspection which is not completed through no fault of the division.

[ARC 7863B, IAB 6/17/09, effective 7/1/09; ARC 8081B, IAB 8/26/09, effective 9/30/09; ARC 0319C, IAB 9/5/12, effective 10/10/12; ARC 1422C, IAB 4/16/14, effective 5/21/14; ARC 4733C, IAB 10/23/19, effective 11/27/19]

875—90.8(89) Certificate. No boiler or pressure vessel shall be operated without a current, valid certificate to operate. A certificate to operate shall not be issued until the boiler or pressure vessel is in compliance with the applicable rules and all fees have been paid. The current certificate to operate or a copy of the current certificate to operate shall be conspicuously posted in the room where the object is installed.

[ARC 1964C, IAB 4/15/15, effective 5/20/15]

875—90.9(89,252J,272D) Special inspector commissions.

90.9(1) Definition of “reputable insurance company.” As used in this rule, “reputable insurance company” means a company recognized by the Iowa insurance division as a licensed insurer, a risk retention group, an alien surplus lines insurer, or a surplus lines insurer.

90.9(2) Application.

a. A person applying for a new or renewed commission shall complete, sign, and submit to the division with the required fee the form entitled “Application for Boiler and Pressure Vessel Special Inspector Commission” provided by the division. Additionally, the applicant shall submit a copy of the applicant’s current National Board work card with each application.

b. An applicant for a new Iowa special inspector commission shall schedule a meeting with the chief boiler inspector to discuss Iowa law and the responsibilities, expectations, and requirements for a special inspector.

90.9(3) Expiration.

a. The commission is for no more than one year and ceases when the special inspector leaves employment with the insurance company, or when the commission is suspended or revoked by the labor commissioner. Each commission shall expire no later than December 31 of each year.

b. Notwithstanding paragraph 90.9(3) “a” and in order to transition from an expiration date of June 30 to an expiration date of December 31, a commission issued between June 1, 2022, and November 30, 2022, shall expire on December 31, 2023.

90.9(4) Changes. The special inspector shall notify the division at the time any of the information on the form or attachments changes.

90.9(5) Denials. The labor commissioner may refuse to issue or renew a special inspector’s commission for failure to complete an application package, if the applicant or inspector does not hold a National Board commission, or for any reason listed in subrules 90.9(7) to 90.9(9).

90.9(6) Investigations. Investigations shall take place at the time and in the places the labor commissioner directs. The labor commissioner may investigate for any reasonable cause. The labor commissioner may conduct interviews and utilize other reasonable investigatory techniques. Investigations may be conducted without prior notice.

90.9(7) Reasons for probation. The labor commissioner may issue a notice of commission probation when an investigation reasonably reveals that the special inspector does not represent a reputable insurance company or the special inspector filed inaccurate reports.

90.9(8) Reasons for suspension. The labor commissioner may issue a notice of commission suspension when an investigation reasonably reveals the following:

- a.* The special inspector failed to submit and report inspections on a timely basis;
- b.* The special inspector abused the special inspector’s authority;
- c.* The special inspector misrepresented self as a state inspector or a state employee;
- d.* The special inspector used commission authority for inappropriate personal gain;
- e.* The special inspector failed to follow the division’s rules for inspection of object repairs, alterations, construction, installation, or in-service inspection;
- f.* The special inspector committed numerous violations as described in subrule 90.9(7);
- g.* The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one’s self or another;
- h.* The National Board revoked or suspended the special inspector’s work card;
- i.* The division received a certificate of noncompliance;

j. The special inspector failed to take appropriate disciplinary actions against a subordinate special inspector who has committed repeated acts or omissions listed in paragraphs “a” to “h” of this subrule; or

k. The special inspector does not represent a reputable insurance company.

90.9(9) *Reasons for revocation.* The labor commissioner may issue a notice of revocation of a special inspector’s commission when an investigation reveals any of the following:

a. The special inspector filed a misleading, false or fraudulent report;

b. The special inspector failed to perform a required inspection;

c. The special inspector failed to file a report or filed a report which was not in accordance with the provisions of applicable standards;

d. The special inspector failed to notify the division in writing of any accident involving an object;

e. The special inspector committed repeated violations as described in subrule 90.9(8);

f. The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one’s self or another;

g. The special inspector instructed, ordered, or otherwise encouraged a subordinate special inspector to perform the acts or omissions listed in paragraphs “a” to “f” of this subrule;

h. The National Board revoked or suspended the special inspector’s work card;

i. The division received a certificate of noncompliance; or

j. The special inspector does not represent a reputable insurance company.

90.9(10) *Procedures.* The following procedures shall apply except in the event of revocation or suspension due to receipt of a certificate of noncompliance. In instances involving receipt of a certificate of noncompliance, the applicable procedures of Iowa Code chapter 252J or 272D shall apply.

a. Notice of actions. The labor commissioner shall serve a notice on the special inspector by certified mail to an address listed on the commission application form or by other service as permitted by Iowa Code chapter 17A. A copy shall be sent to the insurance company employing the special inspector.

b. Contested cases. The special inspector shall have 20 days to file a written notice of contest with the labor commissioner. If the special inspector does not file a written contest within 20 days of receipt of the notice, the action stated in the notice shall automatically be effective.

c. Hearing procedures. The hearing procedures in 875—Chapter 1 shall govern.

d. Emergency suspension. Pursuant to Iowa Code section 17A.18A, if the labor commissioner finds that public health, safety or welfare imperatively requires emergency action because a special inspector failed to comply with applicable laws or rules, the special inspector’s commission may be summarily suspended.

e. Probation period. A special inspector may be placed on probation for a period not to exceed one year for each incident causing probation.

f. Suspension period. A special inspector’s commission may be suspended up to five years for each incident causing a suspension.

g. Revocation period. A special inspector’s commission that has been revoked shall not be reinstated for five years.

h. Concurrent actions. Multiple actions may proceed at the same time against any special inspector.

i. Revoked or suspended commissions. Within five business days of final agency action revoking or suspending a special inspector commission, the special inspector shall forfeit the special inspector’s commission card to the labor commissioner.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 4734C, IAB 10/23/19, effective 11/27/19; ARC 5159C, IAB 8/26/20, effective 9/30/20; ARC 5945C, IAB 10/6/21, effective 11/10/21]

875—90.10(89) Quality reviews, surveys and audits.

90.10(1) An entity that manufactures or repairs boilers, pressure vessels or related equipment may request quality reviews, surveys or audits from certifying organizations such as the ASME or the National Board. The division is authorized to conduct the quality reviews, surveys or audits. If the division performs the service, the manufacturer or repairer shall pay all applicable expenses.

90.10(2) Quality reviews, surveys and audits for certification to the National Board or ASME standards shall be conducted only by a person or organization designated by the labor commissioner. Any person or organization seeking this designation on behalf of the division shall provide documented evidence of training, examination, experience, and certification for the type of reviews, surveys and audits to be performed. The labor commissioner shall have final authority to determine qualifications and designations.

a. Assessing quality programs. The division recognizes the ASME and the National Board as qualified designees for conducting quality reviews, surveys and audits that lead to ASME or National Board program certification.

b. ISO 9000 assessments. The division recognizes the ASME and the National Board:

(1) To be acceptable ISO 9000 registrars of quality systems for boilers and pressure vessels and the related pressure-technology equipment industry;

(2) To certify auditors and lead auditors to the requirements of ISO 10011-2 1991(E), Annex A; and

(3) To conduct ISO 9000 assessments for the boiler, pressure vessel, and related pressure-technology equipment industry.

875—90.11(89) Reporting requirements.

90.11(1) *Control and safety device reports.* Documentation required by this subrule shall be kept on site and shall be available for inspection by the division or special inspectors. The owner or user shall mail a copy of the documentation required by this subrule to the division.

a. The requirements of this subrule do not apply to:

(1) Rescinded IAB 7/18/18, effective 9/1/18.

(2) An object within the scope of 875—Chapter 96;

(3) A hot water supply boiler covered by ASME Section IV, Part HLW; or

(4) A boiler with a fuel input rating greater than or equal to 12,500,000 Btu per hour, falling within the scope of NFPA 85, Boiler and Combustion Systems Hazards Code.

b. The installer shall complete a CSD-1 report for each installed object.

c. A person who installs a new burner, new gas train, or new controller on an object shall complete a CSD-1 report.

d. A person who replaces a part or component of an object shall complete the relevant portions of the CSD-1 report unless the replacement satisfies the design specifications. A copy of an invoice containing the same information as the relevant portions of the CSD-1 report is an acceptable alternative.

90.11(2) *Reporting repairs and alterations.* If the National Board Inspection Code requires that an R-1 Report of Repair or an R-2 Report of Alteration be filed with the National Board, a copy of the National Board form must be simultaneously filed with the labor commissioner.

90.11(3) *Reporting explosions and other incidents.*

a. The following definitions apply to this subrule.

“*Incident*” means the explosion of a covered object or other failure of a component of a covered object causing injury or acute illness.

“*Injury*” means a personal injury requiring professional medical care or causing disability exceeding one day.

b. The owner or user of a covered object shall notify the commissioner of an incident. A special inspector investigating an incident shall notify the owner or user of this reporting requirement.

c. Incident reports shall be made by calling (515)725-5609 or (515)725-5610. If the incident occurs during normal division operating hours, notification shall occur before close of business on that day. If the incident occurs when the division office is closed, the notification shall occur no later than close of business on the next division business day. Division hours are 8 a.m. to 4:30 p.m., Monday through Friday, except state holidays.

d. At the request of the commissioner, a person who submits a report pursuant to this subrule shall also submit a written report that includes the state identification number of the object, name of the owner of the object, and description of the incident.

e. The removal of any part of the damaged object from the premises is forbidden until permission to do so is granted by the state inspector or special inspector who investigated the incident.

f. When an incident involves the failure or destruction of any part of the object, the use of the object is forbidden until it has been made safe and it has passed an inspection by the state inspector or special inspector who investigated the incident.

[ARC 2589C, IAB 6/22/16, effective 7/27/16; ARC 3903C, IAB 7/18/18, effective 9/1/18; ARC 4733C, IAB 10/23/19, effective 11/27/19; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—90.12(89) Publications available for review. Pursuant to Iowa Code section 89.5(3), the standards, codes, and publications adopted by reference in these rules are available for review in the office of the Division of Labor Services, 150 Des Moines Street, Des Moines, Iowa.
[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—90.13(89) Notice prior to installation. Written notice of intent to install objects subject to the jurisdiction of Iowa Code chapter 89 shall be provided to the labor commissioner at least ten days before installation. Written notice shall be accomplished by completing and submitting to the labor commissioner either:

1. The form designated by the labor commissioner, or
2. The National Board's Boiler Installation Report, I-1.

875—90.14(89) Temporary objects.

90.14(1) Certificate to operate. A certificate to operate a temporary object shall expire one year from the date of issuance or when the temporary object is disconnected.

90.14(2) Inspections.

a. An internal inspection and hydrostatic test pursuant to the National Board Inspection Code shall be performed on site at a new location before a temporary object is started up. Once a temporary object has been placed into normal operation, an external operating inspection shall be performed.

b. An inspection on a temporary object that remains at the same location and is in continuous service longer than one year shall be performed according to the inspection schedule of Iowa Code section 89.3.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—90.15(89) Conversion of a power boiler to a low-pressure boiler. The following requirements apply to the conversion of a power boiler to a low-pressure boiler. The owner shall comply with the requirements of subrule 90.15(1) for each conversion. In addition, the owner shall comply with the requirements of subrule 90.15(2) if the converted object will be located outside of a place of public assembly or with the requirements of subrule 90.15(3) if the converted object will be located in a place of public assembly.

90.15(1) General requirements.

a. The owner shall provide to the labor commissioner written notice of intent to convert a power boiler to a low-pressure boiler prior to conversion. The required form for a notice of conversion is available at iowaboilers.gov. At a minimum the notice shall contain the following:

- (1) Address, uses, and owner of the building where the boiler is located.
- (2) The Iowa identification number assigned to the boiler.
- (3) Name and contact information for the person completing the notice.
- (4) Name and contact information for the contractor or other person planning to perform the conversion.

b. Pressure controls shall not exceed 14 pounds per square inch.

c. All boiler controls shall comply with ASME CSD-1.

d. Safety valves and safety relief valves shall be manufactured in accordance with a national or international standard.

e. One or more spring-pop safety valves meeting the following requirements shall be installed on each steam boiler:

- (1) The valve shall be adjusted and sealed to discharge at a pressure not to exceed 15 psig.
- (2) The valve capacity shall be certified by the National Board.
- f. The converted boiler shall be subject to post-conversion external inspection to ensure that the requirements of this rule are met.

90.15(2) Boilers located outside places of public assembly. A power boiler that was converted to a low-pressure boiler and that is located outside of a place of public assembly shall not be converted back to a power boiler unless the following requirements are met:

- a. The owner shall notify the labor commissioner at least ten days prior to converting the boiler.
- b. The owner shall comply with the editions of ASME Section I and CSD-1 in effect at the time of the second conversion.
- c. The owner shall comply with the version of 875—Chapter 92 in effect at the time of the second conversion.

90.15(3) Boilers located in places of public assembly. A power boiler converted to a low-pressure boiler that is located in a place of public assembly shall comply with 875—Chapter 94.

[ARC 9232B, IAB 11/17/10, effective 12/22/10; ARC 3635C, IAB 2/14/18, effective 3/21/18]

875—90.16(89) Definitions regarding objects. The following definitions shall govern classification and status of objects in Iowa. To the extent they do not conflict with the definitions contained in Iowa Code chapter 89, the definitions in this rule shall be applicable to the rules contained in 875—Chapters 90 to 96.

“*Active status*” means an object is physically attached to the system and any forms of potential energy. The object may or may not be in operation.

“*Exempt status*” means an object that is not required to be inspected pursuant to Iowa Code chapter 89.

“*Inactive status*” means the object is no longer in operation and all forms of potential energy have been disconnected in a manner that creates an air gap.

“*Modular boiler*” means a steam or hot water heating assembly consisting of a group of individual boilers called modules intended to be installed as a unit with no intervening stop valves. Modules may be under one jacket or individually jacketed. The individual modules shall be limited to a maximum input of 400,000 Btu/hour (117kW) (gas), 3 gph (11.4 L/h) (oil), or 115kW (electric).

“*Scrapped status*” means the object has been permanently destroyed and is no longer physically at the location.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

These rules are intended to implement Iowa Code chapters 17A, 89, 252J, and 272D.

[Filed emergency 12/26/97 after Notice 11/19/97—published 1/14/98, effective 1/1/98]

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[Filed 7/26/06, Notice 5/10/06—published 8/16/06, effective 9/20/06]^o

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[Filed ARC 9082B (Notice ARC 8694B, IAB 4/21/10), IAB 9/22/10, effective 10/27/10]

[Filed ARC 9232B (Notice ARC 9087B, IAB 9/22/10), IAB 11/17/10, effective 12/22/10]

[Filed ARC 9790B (Notice ARC 9511B, IAB 5/18/11), IAB 10/5/11, effective 11/9/11]

[Filed ARC 0319C (Notice ARC 0207C, IAB 7/11/12), IAB 9/5/12, effective 10/10/12]

[Filed ARC 0416C (Notice ARC 0322C, IAB 9/5/12), IAB 10/31/12, effective 12/5/12]

[Filed ARC 0739C (Notice ARC 0647C, IAB 3/20/13), IAB 5/15/13, effective 6/19/13]

[Filed ARC 1189C (Notice ARC 1015C, IAB 9/18/13), IAB 11/27/13, effective 1/1/14]

[Filed ARC 1422C (Notice ARC 1333C, IAB 2/19/14), IAB 4/16/14, effective 5/21/14]
[Filed ARC 1634C (Notice ARC 1550C, IAB 7/23/14), IAB 10/1/14, effective 11/5/14]
[Filed ARC 1964C (Notice ARC 1798C, IAB 12/24/14), IAB 4/15/15, effective 5/20/15]
[Filed ARC 2403C (Notice ARC 2251C, IAB 11/25/15), IAB 2/17/16, effective 4/1/16]
[Filed ARC 2589C (Notice ARC 2419C, IAB 2/17/16), IAB 6/22/16, effective 7/27/16]
[Filed ARC 3635C (Notice ARC 3504C, IAB 12/20/17), IAB 2/14/18, effective 3/21/18]
[Filed ARC 3903C (Notice ARC 3807C, IAB 5/23/18), IAB 7/18/18, effective 9/1/18]
[Filed ARC 4733C (Notice ARC 4564C, IAB 7/31/19), IAB 10/23/19, effective 11/27/19]
[Filed ARC 4734C (Notice ARC 4565C, IAB 7/31/19), IAB 10/23/19, effective 11/27/19]
[Filed ARC 4977C (Notice ARC 4863C, IAB 1/15/20), IAB 3/11/20, effective 4/15/20]
[Filed ARC 5159C (Notice ARC 4940C, IAB 2/26/20), IAB 8/26/20, effective 9/30/20]
[Filed ARC 5945C (Notice ARC 5595C, IAB 5/5/21), IAB 10/6/21, effective 11/10/21]
[Filed ARC 5977C (Notice ARC 5806C, IAB 7/28/21), IAB 10/20/21, effective 11/24/21]
[Filed ARC 6135C (Notice ARC 5979C, IAB 10/20/21), IAB 1/12/22, effective 2/16/22]

◊ Two or more ARCs

¹ Date corrected IAC Supp. 3/26/08

CHAPTER 91 GENERAL REQUIREMENTS FOR ALL OBJECTS

[Prior to 1/14/98, see 347—Chs 41 to 49]

[Prior to 8/16/06, see 875—Ch 203]

875—91.1(89) Codes and code cases adopted by reference.

91.1(1) *ASME boiler and pressure vessel codes adopted by reference.* The ASME Boiler and Pressure Vessel Code (2021) is adopted by reference. Regulated objects shall be designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code (2021) except for objects that meet one of the following criteria:

- a.* An object with an ASME stamp and National Board Registration that establish compliance with an earlier version of the ASME Boiler and Pressure Vessel Code;
- b.* A miniature boiler installed before March 31, 1967;
- c.* A power boiler or unfired steam pressure vessel installed before July 4, 1951; or
- d.* A steam heating boiler, hot water heating boiler, or hot water supply boiler installed before July 1, 1960.

91.1(2) *ASME code cases.* If the manufacturer of an object listed ASME Code Case 2668-1, 2760, 2764-1, or 2869 on the manufacturer's data report for the object and the object is otherwise in compliance with all applicable provisions, the object is in compliance with these rules.

91.1(3) *Inspection code adopted by reference.* The National Board Inspection Code (2021) is adopted by reference, and installations, alterations, and repairs after February 16, 2022, shall comply with it.

91.1(4) *Electric code adopted by reference.* The National Electrical Code, NFPA 70 (2020), is adopted by reference, and installations after April 15, 2020, shall comply with it.

91.1(5) *Piping codes adopted by reference.* The Power Piping Code, ASME B31.1 (2020), and the Building Services Piping Code, ASME B31.9 (2020), are adopted by reference, and installations after February 16, 2022, shall comply with them up to and including the first valve.

91.1(6) *Control and safety device code adopted by reference.* Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (2018) is adopted by reference, and installations after April 15, 2020, shall comply with it. Reporting requirements concerning CSD-1 are set forth at rule 875—90.11(89).

91.1(7) *Mechanical code adopted by reference.* Excluding Section 701.1, Chapters 2 and 7 of the International Mechanical Code (IMC) (2021) are adopted by reference, and installations after February 16, 2022, shall comply with them.

91.1(8) *Oil burning equipment code adopted by reference.* National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31 (2020), is adopted by reference, and installations after February 16, 2022, shall comply with it.

91.1(9) *Fuel gas code adopted by reference.* National Fire Protection Association National Fuel Gas Code, NFPA 54 (2021), is adopted by reference, and installations after February 16, 2022, shall comply with it.

91.1(10) *Liquefied petroleum gas code adopted by reference.* National Fire Protection Association Liquefied Petroleum Gas Code, NFPA 58 (2020), is adopted by reference, and installations after April 15, 2020, shall comply with it.

91.1(11) *Boiler and combustion systems hazards code adopted by reference.* National Fire Protection Association Boiler and Combustion Systems Hazards Code, NFPA 85 (2019), is adopted by reference, and installations after April 15, 2020, shall comply with it.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 8590B, IAB 3/10/10, effective 4/14/10; ARC 9232B, IAB 11/17/10, effective 12/22/10; ARC 9790B, IAB 10/5/11, effective 11/9/11; ARC 0319C, IAB 9/5/12, effective 10/10/12; ARC 0416C, IAB 10/31/12, effective 12/5/12; ARC 1011C, IAB 9/18/13, effective 10/31/13; ARC 1964C, IAB 4/15/15, effective 5/20/15; ARC 2403C, IAB 2/17/16, effective 4/1/16; ARC 2589C, IAB 6/22/16, effective 7/27/16; ARC 3635C, IAB 2/14/18, effective 3/21/18; ARC 3903C, IAB 7/18/18, effective 9/1/18; ARC 4303C, IAB 2/13/19, effective 3/20/19; ARC 4977C, IAB 3/11/20, effective 4/15/20; ARC 5977C, IAB 10/20/21, effective 11/24/21; ARC 6135C, IAB 1/12/22, effective 2/16/22]

875—91.2(89) Safety appliance.

91.2(1) No person shall remove, disable or tamper with a required safety appliance except for the purpose of repair or inspection.

91.2(2) An object shall not be operated unless all required and installed safety appliances are properly functional and operational.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.3(89) Pressure-reducing valves. Rescinded ARC 3903C, IAB 7/18/18, effective 9/1/18.

875—91.4(89) Blowoff equipment. The blowdown from an object that enters a sanitary sewer system or blowdown that is considered a hazard to life or property shall pass through blowoff equipment that will reduce pressure and temperature. The temperature of the water leaving the blowoff equipment shall not exceed 150 degrees Fahrenheit. If the local jurisdiction has a temperature limit of less than 150 degrees Fahrenheit, the temperature of the water leaving the blowoff equipment shall comply with the limit set by the local jurisdiction. The pressure of the water leaving the blowoff equipment shall not exceed 5 psig. The blowoff piping and fittings between the object and the blowoff tank shall comply with the construction or installation code. All materials used in the fabrication of object blowoff equipment shall comply with the construction or installation code. All blowoff equipment shall be equipped with openings to facilitate cleaning and inspection.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—91.5(89) Location of discharge piping outlets. The discharge from safety valves, safety relief valves, blowoff pipes and other outlets shall comply with the following:

91.5(1) The discharge piping shall terminate at a safe point of discharge.

91.5(2) When the safety valve or temperature and pressure relief valve discharge is piped away from the object to a safe point of discharge, provision shall be made for properly draining the piping.

91.5(3) The size of the discharge piping shall not be reduced from the size of the relief valve.

91.5(4) All discharge piping shall be comprised of appropriate metallic material identified in ASME Section II.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.6(89) Pipe, valve, and fitting requirements. Pipes, valves, and fittings subject to the effects of galvanic action shall not be used on objects covered by these rules. Dielectric fittings shall be used where dissimilar metals are joined.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 3903C, IAB 7/18/18, effective 9/1/18]

875—91.7(89) Repairs and alterations to unfired steam pressure vessels. No single repair of an unfired steam pressure vessel shall involve replacement of more than 50 percent of the OEM's pressure-retaining boundary.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.8(89) Plugging boiler tubes. This rule does not apply to tubes in headers of economizers, evaporators, superheaters, or reheaters.

91.8(1) General requirements.

a. Leaky tubes shall be replaced or plugged.

b. Tube plugs shall be made of a material which is compatible with the material of the boiler tube being plugged and shall be welded into place or manufactured to be expanded into the tube sheet or drum.

c. All plugged boiler tubes shall be replaced prior to the next required certificate inspection.

d. The maximum number of tubes that shall be plugged is the lesser of the number specified by the OEM or the number specified by an engineer experienced in boiler design. Documentation of the maximum number of tubes that may be plugged as determined by the OEM or engineer shall be kept on site, and a copy shall be mailed to the division of labor services.

91.8(2) Fire tube boilers. In a fire tube boiler, a tube that is adjacent to a plugged tube shall not be plugged.

91.8(3) *Water tube boilers, unfired boilers, or process steam generators.* To determine the maximum number of tubes that may be plugged in a water tube boiler, unfired boiler, or process steam generator, an engineer experienced in boiler design shall consider the operational effect on the water side pressure boundary or membrane and the effect on the combustion process throughout the boiler. Water wall tubes may not be plugged if the tubes form a separation wall between products of combustion and the outside atmosphere or a separation of the gas passes in a multiple gas pass boiler.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.9(89) Boiler door latches. Rescinded ARC 0319C, IAB 9/5/12, effective 10/10/12.

875—91.10(89) Equipment room. This rule applies to existing and new installations except as noted in subrule 91.10(1).

91.10(1) *Clearances.*

a. All objects installed after December 1, 2021, shall be installed with the clearances identified in NBIC Part 1.

b. This paragraph applies to objects installed after September 20, 2006, and before December 1, 2021. Minimum clearance on all sides of objects shall be 24 inches, or the manufacturer's recommended service clearances if they allow sufficient room for inspection. Where a manufacturer identifies in the installation manual or other document that the unit requires more than 24 inches of service clearance, those dimensions shall be followed. Manholes shall have five feet of clearance between the manhole opening and any wall, ceiling or piping that would hinder entrance or egress from the object.

c. All objects installed prior to September 20, 2006, shall be so located that adequate space is provided for the proper operation, inspection, and necessary maintenance and repair of the object and its appurtenances.

91.10(2) *Condition of the equipment room.*

a. The roof, walls and floor of the equipment room shall be free from leaks and structurally sound.

b. The equipment room shall have drainage adequate to remove standing water from the floor.

c. The equipment room shall be free from materials that obstruct access to the objects, their setting, or operation.

d. Storage of flammable material or gasoline-powered equipment in the equipment room is prohibited.

91.10(3) *Exit from equipment room.* This subrule shall apply to an equipment room exceeding 500 square feet of floor area, containing at least one object, and containing fuel-burning equipment with at least a combined capacity of 1,000,000 Btu per hour or the equivalent electrical heat input. Two means of exit located remotely from one another shall be provided on each elevation for covered equipment rooms. A platform at the top of a single object or other equipment is not considered an elevation.

91.10(4) *Carbon monoxide detector or alarm.* The owner or user shall install a carbon monoxide detector or alarm in an equipment room where one or more fuel-fired objects are located.

a. The carbon monoxide detector or alarm shall have a visible display showing the parts per million value of the carbon monoxide that is detected.

b. The carbon monoxide detector or alarm shall be hardwired to the building power and shall have a battery backup with visible and audible alarms that identify when the battery backup power supply is low.

c. The carbon monoxide detector or alarm shall be tested daily and shall be calibrated in accordance with the manufacturer's recommendations, or every 18 months after installation of the detector. The testing and calibration shall be recorded in a log book that is readily accessible to the inspectors and owner's staff.

d. The carbon monoxide detector or alarm shall have visible and audible alarms capable of being heard and seen both inside and outside of the equipment room.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.11(89) Fall protection. The owner or user shall provide safe access to object parts over four feet high consistent with 29 CFR Subpart D, Walking-Working Surfaces, and 29 CFR 1910.140, Personal Fall Protection Systems.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.12(89) Exit from rooms containing objects. Rescinded ARC 5977C, IAB 10/20/21, effective 11/24/21.

875—91.13(89) Air and ventilation.

91.13(1) Notice concerning other rules. The division and the Iowa department of public safety both enforce requirements concerning air and ventilation. Objects that are covered by both sets of rules must comply with both sets of rules.

91.13(2) Documentation. Documentation of compliance with any requirement of this rule shall be maintained in the boiler room. However, it is not necessary to maintain documentation of the louvered area.

91.13(3) National combustion air standards.

a. Installations. Installations shall comply with the edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC currently adopted at rule 875—91.1(89) or with the Iowa combustion air standard in subrule 91.13(4). However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA.

b. Existing objects. An adequate supply of combustion air shall be maintained for all objects while in operation. Compliance with the current edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC as adopted at rule 875—91.1(89) or with subrule 91.13(4) constitutes compliance with this rule. Compliance with an earlier edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC constitutes compliance with this rule. However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA. Compliance with an earlier version of Iowa's combustion air rule constitutes compliance with this rule. Earlier versions of Iowa's combustion air rule are available from the board's staff upon request.

91.13(4) Iowa combustion air standard. A permanent source of outside air shall be provided for each room to permit satisfactory combustion of fuel and ventilation if necessary under normal operations. The minimum ventilation for coal, gas, or oil burners in rooms containing objects is based on the Btu's per hour, required air, and louvered area. The minimum net louvered area shall not be less than 1 square foot. The following table shall be used to determine the net louvered area in square feet:

INPUT (Btu's per hour)	MINIMUM AIR REQUIRED (cubic feet per minute)	MINIMUM LOUVERED AREA (net square feet)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3

INPUT (Btu's per hour)	MINIMUM AIR REQUIRED (cubic feet per minute)	MINIMUM LOUVERED AREA (net square feet)
5,000,000	1,200	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

When mechanical ventilation is used, the supply of combustion and ventilation air to the objects and the firing device shall be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute, and the total air delivered shall be equal to or greater than shown above.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 3635C, IAB 2/14/18, effective 3/21/18; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.14(89) Condensate return tank. Condensate return tanks shall be equipped with at least two vents or a vent and overflow pipe to protect against a loose float plugging a single connection.

875—91.15(89) Conditions not covered. Any condition not governed by these rules shall be governed by the construction or installation code.

875—91.16(89) Nonstandard objects. Rescinded IAB 3/12/08, effective 4/16/08.

875—91.17(89) English language and U.S. customary units required. All documentation supplied for the unit including but not limited to the manufacturers' data report, drawings, parts lists, installation manuals, and operating manuals shall be in English, and all measurements shall be in U.S. customary units. All pressure gages, thermometers and other controls and safety devices shall also be in U.S. customary units.

875—91.18(89) National Board registration. Except for cast iron boilers and cast aluminum boilers, all objects shall be registered with the National Board.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 3903C, IAB 7/18/18, effective 9/1/18]

875—91.19(89) ASME stamp. All objects shall bear the appropriate ASME stamp. Objects shall not be utilized in a manner inconsistent with the stamp.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 3903C, IAB 7/18/18, effective 9/1/18]

875—91.20(89) CSD-1 reports and related documentation. Rescinded ARC 2589C, IAB 6/22/16, effective 7/27/16.

These rules are intended to implement Iowa Code chapter 89.

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